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ABSTRACT

This document reports oral testimony and prepared statements of persons who testified at hearings on abuses in federal student aid programs. Witnesses included proprietary school owners, officials from accrediting bodies and other educational organizations. Their testimonies focused on the various problems and discrepancies occurring within the federally guaranteed student loan program, and specifically, the Triad system of state accreditation/certification involving self regulation by industry, eligibility conferred by the U.S. Department of Education on trade and proprietary schools, and the victimization of proprietary students by school owners. (LPT)

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S. Hrg. 101-659, Pt. 2

ABUSES IN FEDERAL STUDENT AID PROGRAMS

HEARINGS

BEFORE THE

PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

PART 2

LICENSING, ACCREDITATION, CERTIFICATION, AND ELIGIBILITY

SEPTEMBER 12, 13, OCTOBER 5, 1990

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CONTENTS

Opening statements: Page
  Senator Nunn 1, 53, 131
  Senator Roth 5, 80
  Senator Cohen 6
  Senator Lieberman 36
  Senator Levin 107

WITNESSES

Wednesday, September 12, 1990

Kim Wherry, counsel, Permanent Subcommittee on Investigations, and Harold B. Lippman, investigator 7
Tommy Wayne Downs, former trade school owner, accompanied by D. Toni Byrd, Esq., attorney for Mr. Downs 24
James B. Thomas, Jr., Inspector General, U.S. Department of Education, accompanied by Gretchen Schwarz, associate inspector general, and Charles Brennan, regional Inspector General, headquarters audit region 39

Thursday, September 13, 1990

Elizabeth Imholz, Esq., director, consumer unit, South Brooklyn Legal Services 55
Thurston E. Manning, president, Council on Post-Secondary Accreditation 60
Deborah Davisson De Vries, former vice president, Accrediting Council for Continuing Education and Training [ACCET] 64
Jan V. Friedheim, former member, National Advisory Committee on Accreditation and Institutional Eligibility 69
John F. Sopko, Deputy Chief Counsel, Permanent Subcommittee on Investigations, and R. Mark Webster, Investigator 81
Roger J. Williams, acting president, Accrediting Council for Continuing Education and Training [ACCET] 93
Robert Taylor, Ph.D., chairman, Accrediting Commission, National Association of Trade and Technical Schools 98
Samuel L. Ferguson, executive director, State Board of Independent Post-Secondary Vocational, Technical, Trade and Business Schools, Florida Department of Education 111
John C. Haworth, school evaluation specialist, Illinois State Board of Education 114
Joe L. McCormick, president, Texas Guaranteed Student Loan Corp 120

Friday, October 5, 1990

R. Mark Webster, Investigator, Permanent Subcommittee on Investigations, and John F. Sopko, Deputy Chief Counsel 132
Barkev Kibarian and Mary Ann Kibarian, owners, Culinary School of Washington 141

Alphabetical List of Witnesses

Brennan, Charles: Testimony 39
Byrd, D. Toni, Esq.: Testimony 24
De Vries, Deborah Davisson:
  Testimony 64
  Prepared statement 267
  Responses to written questions 281

Page

Downs, Tommy Wayne:
  Testimony 24
  Prepared statement 174
Ferguson, Samuel L.:
  Testimony 111
  Prepared statement with attachments 442
Friedheim, Jan V.:
  Testimony 69
  Prepared statement 290
  Responses to written questions 303
Haworth, John C.:
  Testimony 114
  Prepared statement 456
Imholz, Elizabeth, Esq.:
  Testimony 55
  Prepared statement 234
  Responses to written questions 243
Kibarian, Barkev: Testimony 141
Kibarian, Mary Ann: Testimony 141
Lippman, Harold E.: Testimony 7
Manning, Thurston E.:
  Testimony 60
  Prepared statement 254
  Responses to written questions 260
McCormick, Joe L.:
  Testimony 120
  Prepared statement 470
  Responses to written questions 484
Schwarz, Gretchen: Testimony 39
Sopko, John F.:
  Testimony 81, 132
  Prepared statement 307
Taylor, Robert, Ph.D.:
  Testimony 98
  Prepared statement 392
  Responses to written questions 408
Thomas, James B., Jr.:
  Testimony 39
  Prepared statement with attachments 186
  Responses to written questions 224
Webster, R. Mark:
  Testimony 81, 132
  Prepared statement 487
Wherry, Kim:
  Testimony 7
  Prepared statement 145
Williams, Roger J.:
  Testimony 93
  Prepared statement 380
  Responses to written questions 386

APPENDIX

Prepared statements and responses to written questions of the witnesses in order of appearance 145

EXHIBITS

1. Chart: "Annual Costs of Student Loan Defaults, FY 1981-90" 493
2. Chart: "Cohort Default Rate by Institution" 494
3. "Education as Big Business," a special issue of The Creative Service, Independent Journal of Private Career Education. (Oshkosh, WI: The Baxandall Company, Inc., July 1990) ..... *
4. Chart: "Proprietary Schools 'Million Dollar Club' " ..... *
5. Chart: "Many Schools May Be Subject to Default Management Plans" 495
6. Chart: "Triad" 496
7. Chart: "SFA Program Participants" 497

Page

8. Cooper, Kenneth J. "Trade School Revolving Door Worry—Legislator Links Former Education Department Officials, High Default Rate." The Washington Post, September 7, 1990 ..... *
9. Letter from K. Michael O'Connell, Collier, Shannon & Scott, counsel to the Professional Truck Driver Institute of America and the Association of Certified Trucking Schools, dated September 18, 1990, to Eleanor J. Hill, chief counsel, Permanent Subcommittee on Investigations, re. proprietary truck driving schools certified by PTDIA 498
10. Accrediting Agencies' Financial Statements Analysis, prepared by the Permanent Subcommittee on Investigations, with the assistance of the Office of Inspector General, U.S. Department of Education 507
11. U.S. Department of Education, computer printout of FY 1988 Cohort Default Data by Accrediting Agency ..... *
12. The State Education Department/The University of the State of New York, Office of Continuing Education, "A Comprehensive Policy for Approaching Proprietary School Issues," March 6, 1989 ..... *
13. State of New York, Office of the State Comptroller, State Education Department, "Effective Regulatory Oversight Is Needed to Minimize Fraud and Abuse in Proprietary Schools" (Report 89-S-135) June 15, 1990 ..... *
14. New Jersey Interagency Task Force on Proprietary Vocational Schools, "State Agency Regulation, Oversight, and Funding of Programs at Proprietary Schools in New Jersey," March 1990 ..... *
15. Texas Guaranteed Student Loan Corp., "School or Scandal: Schools With Unscrupulous Practices that Invade and Abuse the Guaranteed Student Loan Program," by Joe L. McCormick, executive director, July 1989 ..... *
16. "Ensuring Access: Challenges in Student Aid in the 1990s"—a report of the Advisory Committee on Student Financial Assistance (Washington, DC), July 1990 ..... *
17. Letter, dated July 25, 1990, from Joe L. McCormick, president, Texas Guaranteed Student Loan Corp., Austin, TX, to John Sopko, Permanent subcommittee on Investigations, re. summation of more serious problems with proprietary schools ..... *
18. Statement of Janie W. Smith, director, Division of Nonpublic Postsecondary Education, Georgia Department of Education 516
19. U.S. Department of Education, Office of Inspector General, "The Institutional Eligibility Process Does Not Provide Adequate Assurance That Only Eligible Schools Participate in the Title IV Programs," (Audit Control No. 11-90040). Draft Audit Report, July 1990 ..... *
20. U.S. Department of Education, Office of Inspector General, "Administrative Certification Process Does Not Assure That Schools Are Capable of Administering Title IV Funds," August 1990 ..... *
21. U.S. Department of Education, Office of Inspector General, "Accrediting Agency Recognition Process Does Not Determine That All Recognized Agencies Are Reliable Authorities on the Quality of Educational Services," (Audit Control No. 11-90050). Draft Audit Report, July 1990 ..... *
22. U.S. Department of Education, Office of Inspector General, "Semiannual Report to Congress" (5): October 1, 1987-March 31, 1988, No. 16; April 1, 1988-September 30, 1988, No. 17; October 1, 1988-March 31, 1989, No. 18; April 1, 1989-September 30, 1989, No. 19; October 1, 1989-March 31, 1990, No. 20 ..... *
23. U.S. Department of Education, Office of Inspector General, "Management Improvement Reports":
    (A) No. 89-02, "ED Has Determined Certain Institutions to be Eligible for the SFA Programs without Verifying Data on Course Length" ..... *
    (B) No. 89-09, "Stretching of Training Programs Beyond the Length Needed to Prepare Students for Gainful Employment" ..... *
    (C) No. 90-1, "The Office of Postsecondary Education's Institutional Data System Needs Improvement" ..... *
    (D) No. 90-4, "Need to Strengthen Internal Controls Over Appearances of Conflicts of Interest with National Advisory Committees" ..... *
    (E) No. 90-11, "Improving the Supplemental Loans for Students [SLS] Program" ..... *
    (F) No. 90-13, "Unrestricted Branching Is Detrimental to Students and Taxpayers" ..... *

Page

23. U.S. Department of Education, Office of Inspector General, "Management Improvement Reports"—Continued
    (F) No. 90-13, "Unrestricted Branching Is Detrimental to Students and Taxpayers"—Continued
24. U.S. Department of Education, Office of Inspector General, memorandum, dated May 30, 1989, from regional inspector general for Audit Region IV and Regional Inspector General for Investigation Region IV to Charles J. Brennan, Regional Inspector General for Audit Region XI, re. Accreditation Agency Complaint Procedures ACN (04-96601) ..... *
25. U.S. Department of Education, "Reducing Student Loan Defaults: A Plan for Action," September 1990 ..... *
26. U.S. General Accounting Office, "What Assurance Does Office of Education's Eligibility Process Provide?" (HRD-78-120, January 17, 1979) ..... *
27. Flaherty, Roger, and Pitt, Leon, "Bitter Lessons," series of articles in Chicago Sun-Times, January-December 1988 ..... *
28. Veterans' Administration, "Analysis of the Education Program Approval Process: A Program Evaluation," May 1988 ..... *
29. Statement of the Accrediting Commission of the National Home Study Council, "Accreditation, Federal Aid and Home Study," September 11, 1990. 527
30. Association of Independent Colleges and Schools, news release, dated September 11, 1990, re. "Education Department Distorts Accreditation Role and Default Initiatives." 540
31. Letter and statement, dated September 24, 1990, of Kenneth W. Tidwell, executive director, Commission on Occupational Education Institutions, Southern Association of Colleges and Schools 549
32. Statement of Dennis J. Keller, chairman and chief executive officer, DeVry Inc., Evanston, IL 567
33. Statement of William E. Ritchey, president, Federal Truck Driving School, Inc., El Cajon, CA ..... *
34. Letter, dated September 20, 1990, from Richard C. Hawk, chairman of the board, Higher Education Assistance Foundation, to Senator Nunn, re. response to statement by witness Tommy Wayne Downs 574
35. "Interim Report to the Secretary of Education," submitted by the Accrediting Council for Continuing Education and Training. May 1, 1990 ..... *
36. U.S. General Accounting Office, Fact Sheet for Congressional Requesters, "Defaulted Student Loans—Analysis of Defaulted Borrowers at Schools Accredited by Seven Agencies," September 1990 (GAO/HRD-90-178FS) 576
37. U.S. General Accounting Office, Briefing Report to the Chairman, Permanent Subcommittee on Investigation, Committee on Governmental Affairs, U.S. Senate, "School Accreditation—Activities of Seven Agencies That Accredit Proprietary Schools," September 1990 (GAO/HRD-90-179BR) 595
38. FY 1988 Default Information by Default Amount, "Million-Dollar Schools" for seven accrediting agencies: ACCET, ABHES, AICS, NACCAS, NATTS, NHSC, and SACS 632
39. U.S. Department of Education, Office of Inspector General, "Summary of Deficiencies Identified from Audit and Program Review Results of OPE" ..... *
40. U.S. Department of Education, Office of Inspector General, "Division of Audit and Program Review Listing of Deficiency Codes" ..... *
41. Financial data from Nancy Mohr Kennedy, U.S. Department of Education, Office of Legislation, sent by FAX, September 4, 1990, to Hal Lippman, Permanent Subcommittee on Investigations:
    (A) Accrediting Agency Evaluation Branch [AAEB] travel and staffing data 637
    (B) National Advisory Committee decision activity, 1980-90 640
42. Letter, dated July 26, 1990, from Nancy Mohr Kennedy, Assistant Secretary, U.S. Department of Education, Office of Legislation and Congressional Affairs, to Senator Nunn, re. reports on reimbursement system activity, program review deficiencies, audit deficiencies, and schools monitored by Eligibility and Certification Division ..... *
43. Letter dated March 23, 1990, from Mitchell L. Laine, Assistant Inspector General for Audit, U.S. Department of Education, to Hal Lippman, Permanent Subcommittee on Investigations, re. requested information on ACCET-accredited schools, and OMB review of Department of Education vulnerable programs ..... *

Page
44. Letter, dated September 25, 1990, from Andrea D. Zaretzki, executive director, Legislative Oversight, Analysis and Investigation Committee, The Assembly, State of New York, Albany, NY, to Eleanore J. Hill, Chief Counsel, Permanent Subcommittee on Investigations, re. review of proprietary school industry and the Proprietary School Reform Act .... *
45. Letter, dated October 1, 1990, from David A. Young, administrator, Academic Degrees and Program Review, Office of Educational Policy and Planning, State of Oregon, to Senator Nunn, re. evaluation of accrediting agencies and National Association of State Approving Agencies (NASAA) .... *
46. "Proposed Reforms and Recommendations Regarding Reauthorization of the Higher Education Act," presented by Council to Advance Career Schools, April 1990 .... *
47. "SFA Recommendation List," Audit Title: "Guaranteed Student Loan Holders Should be Required to Provide Data on Refunds and Cancellations which could be used to Systematically Identify Schools with Potential Refund" (Audit No. 01-70090, August 1990) .... *
48. "Getting Skilled, Getting Ahead," cosponsored by NATTS and the U.S. Department of Education .... *
49. "The Career School Con Game," sponsored by South Brooklyn Legal Services et al. (English and Spanish versions) .... *
50. U.S. Department of Education—Office of Inspector General, Status of Recommendations of Audit Reports on Student Financial Aid Programs, October 1, 1990 .... *
51. Statement of Margaret Reiter, deputy attorney general, State of California 641
52. List of Chronologies of Significant Events Concerning Culinary School of Washington [CSW] (compiled by staff, Permanent Subcommittee on Investigations):
  (A) Bulky files supporting Higher Education Assistance Foundation [HEAF] Chronology on the Culinary School of Washington .... *
  (B) Bulky files supporting Accrediting Council for Continuing Education and Training [ACCET] Chronology on Culinary School of Washington .... *
  (C) Bulky files supporting National Association of Trade and Technical Schools [NATTS] Chronology on Culinary School of Washington .... *
  (D) Bulky files supporting District of Columbia Education Licensure Commission Chronology on Culinary School of Washington .... *
  (E) Bulky files supporting Commonwealth of Virginia Chronology on Culinary School of Washington .... *
  (F) Bulky files supporting U.S. Department of Veterans Affairs Chronology on Culinary School of Washington .... *
  (G) Bulky files supporting U.S. Department of Education Chronology on Culinary School of Washington .... *
53. Statement of Paul Fiscella, Legal Services of Northern Virginia, Inc., Alexandria Legal Aid Branch 647
54. Statement of John G. Stone III, executive director, D.C. Education Licensure Commission 650
55. Letter, dated September 10, 1990, and supplementary information from John G. Stone III, executive director, D.C. Education Licensure Commission 677
56. Statement of Charles W. Finley, Associate Director Proprietary School Service, Department of Education, Commonwealth of Virginia (Attachments may be found in the files of the subcommittee.) 701
57. Statement of Richard M. Webster, staff investigator, Permanent Subcommittee on Investigations regarding Southeastern University 713
58. Affidavit, dated September 6, 1990, of Sharon E. Marburg, former employee, Culinary School of Washington 728
59. Affidavit, dated September 11, 1990, of David L. Osborne, former student and former chef-instructor, Culinary School of Washington 731
60. Statement of Garry D. Hays, president, Higher Education Assistance Foundation 736
61. Statement of D'Wayne Gray, Chief Benefits Director, Department of Veterans Affairs 740
62. Statement of Deborah A. Simmons, former employee, Culinary School of Washington 750
63. September 1990 mass mailing from Barkev Kibarian, chairman of the board, Culinary School of Washington, Paris, Rome, Beijing, Inc., re. proposal for turn-key cooking school 752

Page

64. July 1990 mass mailing from Barkev Kibarian, Ph.D., chairman of the board, Culinary School of Washington, Ltd., re. proposal to establish a chef's training program on campus of addressee's school 757
65. Report of Investigation, dated October 3, 1988, from Special Agent Ralph Cross, Office of Inspector General, Office of Investigation, U.S. Department of Education, re. referral of Culinary School of Washington case to AUSA Benner; OIG's closing of its case (File No. 86-000270) 765
66. Affidavit, dated October 16, 1990, of Myrna Dworsky, former employee, Culinary School of Washington ..... *
67. Affidavit, dated October 4, 1990, of Hamid Tabatabai, former employeee, Culinary School of Washington 766
68. Letter, dated August 15, 1989, from Robert Hanrahan, Culinary School of Washington, to Dr. Stone, re. follow-up to conversation with Janie M. Wheeler, Vice President for Administration, ACCET 770
69. Letter, dated August 21, 1989, from Bob Hanrahan, Culinary School of Washington, to Mr. Stone, re. request by Mayor Marion Barry that Culinary's Blue Plains Chef class cater a special luncheon on August 29, 1989 771
70. Letter, dated July 6, 1990, from Dr. Marie-Helene Gibney, Associate Provost, Georgetown University, to Pamela R. Pell, Chief, Government of District of Columbia, Education Licensure Commission, re. letter of June 12, 1990, seeking to verify status of Dr. Barkev Kibarian 779
71. Sealed Exhibit: U.S. Department of Justice, Federal Bureau of Investigation Reports re. Barkev Kibarian, Culinary School of Washington, and fraud against the Government (April 29, 1985, May 14, 1985, and May 9, 1985 Reports of Interview.) ..... *
72. Culinary School of Washington, Inc., Prospective Statement of Operations, year ended December 31, 1984 ..... *
73. Letter, dated December 19, 1989, from June Sherwood, director of property management, Scott Management, Inc., Alexandria, VA, to Sherrye Ward, executive director, Virginia State Education Assistance Authority, Richmond, VA, re. Culinary School of Washington's failure to meet rental obligations ..... *
74. Culinary School of Washington, Inc., Financial Statements, December 30, 1984, prepared by Laurence D. Levy, C.P.A. ..... *
75. Letter, dated December 3, 1984, from Ricketts, Fattorini & Nelson, certified public accountants, to Culinary School of Washington, Inc., re. Culinary's balance sheet as of June 30, 1984 ..... *
76. Letter, dated July 31, 1980, from Wayne Kendrick & Co., certified public accounts, to board of trustees, Southeastern University, re. matters disclosed by examination of financial records of Southeastern for fiscal years ended July 31, 1978 and July 31, 1979 ..... *
77. Letter, dated November 4, 1980, from Wayne Kendrick & Co., certified public accounts, to board of trustees, Southeastern University, re. detailed examination disclosing a pervasive use of university funds, facilities, equipment, and personnel for the benefit of Culinary School of Washington ..... *
78. Audit, dated April 7, 1987, from Hagan McClintock & Co., C.P.A., Pittsburgh, to directors of Culinary School of Washington, Ltd., Washington, DC, re. Supplemental Educational Opportunity Grant Program [SEOG], Pell Grant Program [PELL], and Guaranteed Student Loan Program [GSL], June 30, 1986 ..... *
79. Letter, dated October 19, 1988, from Harold H. Brown, Ph.D., executive secretary, State Board of School and College Registration, State of Ohio, Columbus, OH, to Ray Pennell, executive vice president, Culinary School of Washington, Ltd., Washington, DC, re. application for registration received July 1, 1988 ..... *
80. Audit, dated February 6 to February 27, 1989, from Ralph D. Shaw, C.P.A., Pear, Fagan & Bormel, P.A., Laurel, MD, to Culinary School of Washington, Ltd., Washington, DC ..... *
81. Agreement, supplied by the Culinary School of Washington, Paris, Rome, Beijing, Inc., to create a Gastronomy/Chef's Program for the University of Bridgeport, transmitted by FAX from Dr. Kibarian to Lillian Nash, University of Bridgeport, September 18, 1990 780
82. Letter, dated July 16, 1990, from Barkev Kibarian, Culinary School of Washington, to Dr. Janet Greenwood, University of Bridgeport, CT, re. enclosed letter for mass mailing to measure interest in proposed program 785

Page

83. Letter, dated June 18, 1990, from Barkev Kibarian, Culinary School of Washington, to Dr. Janet D. Greenwood, President, University of Bridgeport, CT, re. the chef's program 787
84. Letter, dated May 30, 1990, from Barkev Kibarian, Culinary School of Washington, to Dr. Edwin G. Eigel, Jr., provost and vice president, University of Bridgeport, CT, re. suggested meeting to finalize initial agreement to initiate the program 791
85. Letter, dated September 10, 1990, from Gilbert M. Eisner, M.D., Washington, DC, to Stephen Matthews, Esq., Schwalb, Donnenfeld, Bray & Silbert, re. Barkev Kibarian's medical condition .... *
86. Letter, dated September 11, 1990, from Stephen P. Matthews, Schwalb, Donnenfeld, Bray & Silbert, to John Sopko, deputy chief counsel, Permanent Subcommittee on Investigations, re. Barkev Kibarian .... *
87. Letter, dated September 12, 1990, from Stephen P. Matthews, Schwalb, Donnenfeld, Bray & Silbert, to John F. Sopko, deputy chief counsel, Permanent Subcommittee on Investigations, re. subpoenas issued to Dr. Barkev Kibarian and Mrs. Mary Ann Kibarian .... *
88. Letter, dated September 24, 1990, from John F. Sopko, deputy chief counsel, Permanent Subcommittee on Investigations, to Stephen P. Matthews, Schwalb, Donnenfeld, Bray & Silbert, re. testimony of Dr. and Mrs. Kibarian .... *
89. Letter, dated October 2, 1990, from Stephen P. Matthews, Schwalb, Donnenfeld, Bray & Silbert, to Senator Nunn, re. Barkev Kibarian, Ph.D 798
90. Letter, dated September 19, 1990, from Stephen P. Matthews, Schwalb, Donnenfeld, Bray & Silbert, to Senator Nunn, re. hearings on Abuses in Federal Student Aid Programs—testimony of Barkev Kibarian, Ph.D. and Mrs. Mary Ann Kibarian 801
91. Letter, dated September 28, 1990, from Richard N. Edelson, M.D., The Neurology Center, P.A., to whom it may concern, re. Dr. Barkev Kibarian 803
92. Letter, dated October 4, 1990, from Richard N. Edelson, M.D., The Neurology Center, P.A., to Senator Nunn, re. Dr. Barkev Kibarian 804
93. Memorandum, dated January 29, 1990, from Special Agent Ralph Cross, Office of Inspector General, Office of Investigation, U.S. Department of Education, re. interview of former employee, Culinary School of Washington (Case No. 87-000270) .... *
94. Report of Investigation, dated January 20, 1988, from Special Agent Ralph Cross, Office of Inspector General, Office of Investigation, U.S. Department of Education, re. Culinary School of Washington investigation (OI File No. 86-000270) .... *
95. Memorandum, dated August 13, 1986, from Robert A. Gray, Management Analyst, PPMS/OIG, re. phone call from Miguel de le Cuetara, attorney representing Washington Spanish-Americans, reporting alleged illegal activities by officials at Culinary School of Washington .... *
96. Memorandum, dated July 3, 1986, from Special Agent Ralph Cross, Criminal Investigator, Office of Inspector General, U.S. Department of Education, re. interview of former employee, Culinary School of Washington (No. 86-000270) .... *
97. Memorandum, dated June 19, 1986, from Special Agent Ralph Cross, criminal investigator, Office of Inspector General, U.S. Department of Education, re. interview of former employees, Culinary School of Washington (No. 86-000270) .... *
98. Memorandum, dated June 19, 1986, from Special Agent Ralph Cross, criminal investigator, Office of Inspector General, U.S. Department of Education, re. interview of a financial aid officer, Southeastern University, re. Barkev Kibarian, owner, Culinary School of Washington (No. 86-000270) .... *
99. Memorandum, undated, from Special Agent Ralph Cross, Criminal Investigator, Office of Inspector General, U.S. Department of Education, re. interviews during June, 1986, with Culinary School of Washington former and current employees (File No. 86-000270) .... *
100. Memorandum, undated, from Special Agent Ralph Cross, criminal investigator, Office of Inspector General, U.S. Department of Education, re. interviews during April, May, and June 1986, with Culinary School of Washington students .... *
101. Memorandum, dated May 19, 1986, from Mitchell L. Laine, Assistant Inspector General for Audit, U.S. Department of Education, to C. Ronald Kimberling, Assistant Secretary for Postsecondary Education, re. Office of Inspector General Alert Concerning the Culinary School of Washington .... *

Page

102. Letter, dated March 13, 1987, from Mary Ann Kibarian, president, Culinary School of Washington, Ltd., to John Uchima, Acting Chief, Occupational/Vocational Eligibility Branch, Division of Eligibility and Agency Evaluation, U.S. Department of Education, re. notice of Culinary's withdrawal from membership in National Association of Trade and Technical Schools [NATTS] .... *
103. Report of Investigation, dated July 18, 1984, from Special Agent Ralph Cross, U.S. Department of Education, Office of Inspector General, Office of Investigation, re. allegations of criminal misconduct by officials of the Culinary School of Washington: unsubstantiated (File No. 84-000208) .... *
104. Memorandum and correspondence between U.S. Department of Education, Office of the Inspector General, Region III, and Culinary School of Washington, DC, re. draft audit report, "Review of Selected Aspects of the Guaranteed Student Loan Program [GSLP] administered by Culinary School of Washington, Washington, DC, during the period July 19, 1982 through December 31, 1985" (Audit Control No. 03-60501) .... *
105. Limitation Agreement, dated October 21, 1986, between the Higher Education Assistance Foundation and the Culinary School of Washington, Ltd ... *
106. Memorandum, dated July 1, 1986, from C. Ronald Kimberling, Assistant Secretary for Postsecondary Education, U.S. Department of Education, to Mitchell L. Laine, Assistant Inspector General for Audit, re. Office of Inspector General Alert Concerning the Culinary School of Washington, DC *
107. Letter, dated September 15, 1989, from Barkev Kibarian, Ph.D., chairman of the board, Culinary School of Washington, Ltd., to Ethelene Hughey, Audit Review Branch Chief, Office of Postsecondary Education, re. payment check of $15,033 for placement in escrow for implementation of chef scholarship program .... *
108. "Learn To Be A Chef," Culinary School of Washington, Ltd., 1989-90 catalog (Volume Five, July, 1989) .... *
109. U.S. Department of Education, Office of Inspector General, "Inspection Report of Culinary School of Washington, Ltd., Washington, DC" (Inspection N-0000903) May 21, 1990, prepared by E. Edward Dahl, Director, OIG Inspection Team .... *
110. U.S. Department of Education, Office of Inspector General, Office of Audit, "Report on Review of Selected Aspects of the Guaranteed Student Loan Program Administered by Culinary School of Washington, Washington, DC, during the period July 19, 1982 through December 31, 1985" (Audit Control Number 03-60501), February, 1988. Regional Inspector General for Audit, Regions I, II, and III, Philadelphia, PA .... *
111. Boo, Katherine, "Recipe for Disaster," City Paper, August 24, 1990 .... *
112. Letter, dated October 15, 1990, from Albert J. Predergast, re. his association with Culinary School of Washington .... *
113. Statement of Hon. Marge Roukema, a U.S. Representative from the State of New Jersey 805

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*May be found in the files of the Subcommittee.

ABUSES IN FEDERAL STUDENT AID PROGRAMS

WEDNESDAY, SEPTEMBER 12, 1990

U.S. Senate,
Permanent Subcommittee on Investigations,
Committee on Governmental Affairs,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:30 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Sam Nunn (Chairman of the Subcommittee) presiding.

Present: Senators Nunn, Roth, Lieberman, and Cohen.

Staff present: Eleanore J. Hill, Chief Counsel; John F. Sopko, Deputy Chief Counsel; Mary D. Robertson, Chief Clerk; Alan Edelman, Counsel; Kim Wherry, Counsel; David B. Buckley, Chief Investigator, Harold Lippman, Investigator, Mark Webster, Investigator, Grace McPhearson, Investigator; Cynthia Comstock, Staff Assistant, Declan Cashman, Staff Assistant; Daniel F. Rinzel, Minority Chief Counsel; Carla Martin, Minority Assistant Chief Clerk; and Blaine Phillips, Minority Staff Assistant.

Other staff present: Robert Harris (Senator Glenn); and Aaron Bayer (Senator Lieberman).

[Statement of authority follows:]

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive session hearings without a quorum to two members for the administration of oaths and the taking of testimony in connection with hearings on Abuses in Federal Student Aid Programs (Part 2) to be held on September 12 and 13, 1990.

Sam Nunn, *Chairman.*
William V. Roth, Jr.,
Ranking Minority Member.

OPENING STATEMENT OF SENATOR NUNN

Senator Nunn. The Subcommittee will come to order.

Last February, the Permanent Subcommittee on Investigations held two days of hearings on problems in the Title IV guaranteed student loan program. Those hearings uncovered an alarming pattern of waste, fraud and abuse in the program, particularly in regard to those loans given to students enrolled in trade and proprietary schools.

At those hearings, the General Accounting Office reported that their review of the 1987 data showed that, although proprietary school students accounted for only 22 percent of the outstanding loans in the Title IV program, they produced 44 percent of all defaults.

Of perhaps even greater significance, we also heard testimony that vividly demonstrated that the students for whom the loan program had been developed were being victimized themselves by unscrupulous school owners. Tens of thousands of such students failed to receive the promised training and skills from those schools and, accordingly, found themselves saddled with debt they had no way of repaying.

Since those hearings, additional developments have taken place which further underscore the extent of the problems we uncovered earlier this year and the growing seriousness this situation poses.

On July 19, 1990, the Secretary of Education announced that he had been notified by the Higher Education Assistance Foundation, known as HEAF, one of the Nation's largest guarantors of Federal student loans, that it was facing serious financial problems. HEAF is presently responsible for more than $9 billion in student loans, the great majority of which were made to proprietary school students.

The potential effect of HEAF's financial plight becomes painfully apparent when one considers that its guaranteed loans to proprietary students are defaulting at the astronomical rate of 47 percent. Even as American taxpayers continue to struggle with the aftermath of the savings and loan debacle, once again we seem to be faced with what may be the beginning of another multi-billion-dollar bailout.

At this point, let me interject that the Subcommittee has also been looking into these developments, especially the role of lenders, secondary market loan services, and guaranty agencies, for some time and will hold hearings on these aspects of the program on the 25th and 26th of this month.

This morning and tomorrow morning, we will examine the question of how ineffective, suspect or disreputable schools get into and remain in the Federal guaranteed student loan program. Under the current system, the so-called Triad of State licensing, accreditation by industry self-regulatory bodies, and eligibility/certification conferred by the U.S. Department of Education determines which schools are eligible to participate in the Federal student loan programs.

Those three levels of review were intended to insure some degree of quality in education in the Federal student loan program. Unfortunately, we have recently seen more and more evidence that the system is falling far short of that goal.

The Subcommittee staff will report this morning that serious shortcomings in the so-called triad system have "encouraged unscrupulous school owners to take advantage of the availability of Title IV funds, because they know that the system is not set up to detect or catch fraud and abuse."

One school owner recently described the ease in getting rich in the proprietary school business by calling the 1980's the "opportune time to be crooked."

Consider, for example, some of the schools that have been allowed to participate in the Federal student loan program:

In Florida, a fully accredited nursing assistant and respiratory therapy school was allowed to participate in the Federal guaranteed student loan program. On a subsequent site visit to the school, Florida licensing officials found that the school was connected to a store, whose customers had to pass through the school entrance to conduct business. The store was operated by the school's owner, selling records and tapes, a large part of which were x-rated. Access to the school classroom was nothing more than a hole knocked out of a wall and essential instructional materials were meager or non-operable. The school's self-study document listed several clinical affiliations, including Jackson Memorial Hospital. When called, hospital officials had no knowledge of any arrangement with the school.

Another example: In Washington, D.C., students of a cooking school, which was at one point simultaneously accredited by two different accrediting bodies, reportedly complained of receiving few classes and of having to perform unpaid work as part of their so-called education in the cafeteria of the Blue Plains Sewage Treatment Plant. Most of the students received Federal grants and guaranteed loans to pay the school's $6,900 fee for a 6-month chef course. After a long history of complaints and investigations, one accrediting body withdrew its accreditation, while the other finally withdrew its accreditation 2 days before the school filed for bankruptcy.

An accredited truck driving school, with multiple branches, located nationwide enrolled close to 100,000 students between 1980 and 1988. Virtually all of these students paid for their tuition with Federal student aid funds. At just one location of this school, more than 13,000 out of nearly 31,000 students defaulted on their loans, to the tune of some $27 million.

Among the problems found at this and other school locations were: alteration of ability-to-benefit tests so that unqualified students were admitted; enrollment of students with physical disabilities or criminal records that would prevent them from driving a truck or obtaining a license to do so; and falsification of documents to appear to be in compliance with Federal course length requirements.

As a result of these abuses, the owner of this school is the subject of a $366 million civil suit by the U.S. Departments of Education and Justice, in which he is charged with defrauding the Federal guaranteed student loan program. The owner of this school, it is worth noting, was at one time a member of the board of directors of the accrediting body that accredited his schools.

Clearly, these examples do not demonstrate the type of "quality education" that most taxpayers assume is the foundation of the Federal student loan program. Accreditation alone apparently no longer guarantees that students will receive, at Federal expense, skilled training and instruction in their chosen field.

Moreover, the other two prongs of the triad review process—licensing and certification—often do little to improve the situation. State licensing authorities, typically underfunded and undermanned, operate under a wide range of differing State licensing requirements and often are ill-equipped to add more than a perfunctory rubber-stamp approval.

Moreover, their role in determining eligibility for the Federal programs is often lost in the process. In Georgia, for example, licensing officials discovered a branch of an out-of-State accredited school receiving Federal funds without ever having been licensed in Georgia.

As for the Department of Education's certification, in practice it has proven to be virtually guaranteed once a school is licensed and accredited. According to the Department's Inspector General, for example, between fiscal year 1987 and fiscal year 1988, approximately 2,024 out of 2,087, or 97 percent, of the schools reviewed by the department's certification branch were ultimately certified.

According to the Inspector General, 800 or 38 percent of these institutions were financially troubled and/or had significant administrative deficiencies. During this same time span, about 150 of these schools closed and 50 closed so abruptly that educational services were not provided to students already enrolled. As a result, millions of dollars in Federal student aid funds were wasted and the students were left with little more than a substantial Federal debt for training they never received.

This morning's hearing is intended to examine in-depth the so-called triad review process—licensing, accreditation and certification. I am hopeful that the testimony will help to explain why this system has so frequently allowed unqualified, ill-equipped, financially unsound, and, in some cases, even fraudulent schools to receive huge amounts of Federal student loan funds. We want to know not only why the system has failed in the past, but also what can be done, whether through legislation or agency reform, to prevent those types of abuses in the future.

This morning, we will hear from the Inspector General, who will discuss the problems his staff has found in several reviews of the Department's management and oversight of the student loan program. He will explain the Department's certification and eligibility processes, as well as the role played by the Accrediting Agency Evaluation Branch and the National Advisory Committee on Accreditation and Institutional Eligibility.

We will also hear from a number of witnesses who, by virtue of their diverse personal and professional experiences, have a unique perspective on the causes and effects of problems in the Federal guaranteed student loan program.

Finally, we will hear from an individual with intimate knowledge of the problems in the triad, based on his experience as a former proprietary school recruiter, financial aid administrator, and owner. This witness is presently serving a prison sentence for defrauding the government of more than $400,000 by inventing fictitious students for whom he then obtained federally guaranteed student loans. His testimony will help explain how easily the current system can be manipulated by unscrupulous profiteers, at the expense of both the students and, ultimately, the taxpayers.

Before we proceed, I want to express my thanks to the ranking member, Senator Roth, Senator Cohen and other members of the Subcommittee, as well as particularly the minority staff, for their cooperation and assistance during the course of this investigation.

I also want to publicly acknowledge and express my appreciation to the General Accounting Office and the Inspector General's Office of the Department of Education for the assistance they have provided the Subcommittee staff in connection with the investigation and preparation for these hearings.

Senator Roth, I call on you now. I know Senator Cohen has an opening statement, and then we will get to our witnesses.

OPENING STATEMENT OF SENATOR ROTH

Senator ROTH. Thank you, Mr. Chairman.

The original purpose of our student loan program was, of course, to give needy students a chance to succeed. The program exemplified the principles of opportunity and achievement that our country was founded upon.

But now the system has been tainted by greed. Some dishonest school operators have taken advantage of loose regulations and turned their so-called educational institutional into money-grabbing businesses. They have substituted marketing schemes for real education, for the specific purpose of conning unsuspecting students.

Mr. Chairman, I commend you for holding these hearings and I commend your staff for their outstanding investigative efforts. It is time to meet the problems revealed by this investigation head-on.

As you know, the student loan program will make nearly $18 billion in loans during this fiscal year, and it is estimated that about 13 percent of those loans or $2.3 billion will default. That money will be lost not solely through the fault of students, but because of the sharp practices of some school operators, accrediting agencies and lenders.

Now, we know the money being lost in the student loan program is the taxpayers', and yet we will hear calls from some in Congress asking the taxpayers for more money.

Mr. Chairman, it seems to me that this is more than merely a problem of calling for more regulators and more regulations. I am concerned that, once again, by making loan guarantees, we have opened the door to the unscrupulous, sharp-shooters who see a way into the U.S. Treasury.

I think we have to recognize that there is a very significant difference between those students entering established 2-year or 4-year schools, in contrast to so-called trade schools. Both serve a very legitimate purpose and need. We must insure that our needy who cannot go on to regular college have the opportunity to be educated for some worthwhile trade. But unfortunately, once again, loan guarantees seem to have provided an opportunity for a fast buck to be made by the sharp-shooters.

As we look through the triad, or means of accrediting these schools, it seems to me that there is a very significant difference between established junior colleges and schools. The accreditation in those instances may work reasonably well, but they are not adequate or do not appear to be adequate in the case of proprietorship, where the goal too often seems to be making funds for the owner, rather than the education of the needy.

So, I think Congress has a very real responsibility to look at the basic approach of the student loan program and develop some kind of a system that will insure that the young are not merely being taken, from the standpoint of a loan, but are receiving a worthwhile education. So, I congratulate you on your hearings.

Senator NUNN. Thank you very much, Senator Roth.

Senator Cohen?

OPENING STATEMENT OF SENATOR COHEN

Senator **Cohen**. Mr. Chairman, let me first commend you.

Yesterday, as Chairman of the Armed Services Committee, you directed our attention to the Middle East, and today you have shifted that attention back to the heart of America. I think it is desperately important that we continue to focus on problems here at home, as well as abroad.

I have a statement that I would like included in the record. I will simply say that we have at least 17 proprietary schools in Maine. Most of them are well known and they are well run and the students who attend them are well prepared for careers in their futures.

In quickly looking over the testimony, it is also very clear that this is not the case nationwide. We have some schools who are inventing students so that they can bilk the Federal Government. There are others who are near collapse and they leave the students without degrees, as you have indicated, Mr. Chairman, but with substantial debts as they close their doors. There are others who offer worthless courses and charge pretty hefty tuition, leaving their students poorer, perhaps wiser, but certainly no closer to a decent job.

I would point out that it is not enough that these institutions are defrauding the Federal Government. That is serious enough, but they send individuals like Tommy Wayne Downs, who is going to be one of the witnesses this morning, to prey upon the poorest, the most desperate in our society. They sell dreams, dreams of a better way of life, a home, a career, dreams of a life of self-sufficiency and productive work, and hope for the one thing that is integral to the American dream and that is education.

By preying on the young, the person who is struggling without a trade or skills, the person who is desperate for a way out, these institutions are not only defrauding the Federal Government, they are defrauding the very people who are least able to see through the glib promises and the easy smiles.

So, Mr. Chairman, I commend you for holding these hearings and I look forward to the testimony this morning.

[The statement of Senator Cohen follows:]

Prepared Statement of Senator Cohen

Mr. Chairman, I am pleased that you have called these hearings on the accreditation and subsequent eligibility of schools to take part in the federally funded student aid programs. I believe the abuses of these programs simply must cease and I am eager to hear the testimony of those who will give us some understanding of how to curb the flagrant misuse of these federal dollars.

According to the Career Training Institute, there are currently more than 2 million students enrolled in our nation's proprietary schools. The Institute estimates that this enrollment figure has dropped 11% from last year, a decline it links to changes in the eligibility for student loans. Last year, 15 percent of our nation's proprietary schools closed, a figure may be linked to eligibility for federally funded loans. Clearly the relationship between proprietary schools, student enrollments, and the federal loan programs is an important one and, as these figures suggest, well worth a serious review.

In my own home state of Maine, there are some 17 proprietary schools serving the students of the state. Many of these schools are well known institutions and the students are well served by them. Armed with the training offered by these institutions, these Maine students enter the workforce well prepared to become useful and accomplished in their trades.

But in reviewing the testimony provided for this hearing, it is clear that some proprietary schools outside Maine are not providing such a service. Some are inventing students so that they can bilk the federal government. Others, near collapse, leave the students without degrees—but with substantial debts—as they close their doors. Still others offer worthless courses and charge hefty tuitions, leaving their students poorer and wiser, perhaps—but no closer to a decent job.

It is not enough that these institutions defraud the federal government, they send individuals like Tommy Wayne Downs to the poorest and most desperate to sell them "dreams". Dreams of a better way of life, a home, a career. Dreams of a life of self-sufficiency and productive work. And the hope of the one thing that is integral to the American Dream: an education. By preying on the young, the person struggling—without a trade or skills, the person desperate for a "way out", these institutions defraud not only the federal government: they defraud young people who are least able to see through the glib promises and easy smiles.

For those young Americans, I offer a special thanks to you, Mr. Chairman. It is, in large part, for their sakes that we hold these hearings today.

Senator **NUNN**. Thank you, Senator Cohen.

I agree with your statement completely. The tragedy here is there has never been a point in our history that I can recall, at least in reading the history of this country, where we needed to emphasize skilled training more. There has probably never been a time in the history of the United States where we need to devote much more attention to providing skilled training and the opportunity for skilled training to so much of our society.

So, that makes this a double fraud—really it is a triple fraud. I would say a fraud against the taxpayers, a fraud against the students, and a fraud against the American economy and our ability to compete in the world. So I would definitely agree with you.

Senator **NUNN**. Our first witnesses this morning are Kim Wherry and Hal Lippman, investigators for our staff. We swear in all the witnesses before this Subcommittee, so, Kim and Hal, I will ask you to stand and take the oath.

Do you swear that the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. **WHERRY**. I do.

Mr. **LIPPMAN**. I do.

Senator **NUNN**. I know you have a rather lengthy staff statement and it is all important, but I understand that you are going to be able to summarize some of it. Make sure you hit most of the points, though, do not cut it too briefly. We appreciate your good work.

TESTIMONY OF KIM WHERRY, COUNSEL, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,[1] AND HAROLD B. LIPPMAN, INVESTIGATOR

Ms. **WHERRY**. Thank you, Senator. Good morning, Mr. Chairman and members of the subcommittee.

Last February, during the Subcommittee's first set of hearings on student loan abuse, we heard of the tactics that some schools were using to victimize students and the American taxpayer.

In this hearing, we will uncover how many of these unscrupulous schools are able to get into the Title IV system and stay in, thereby wreaking havoc and rupturing the dreams of so many underprivileged Americans.

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[1] See p. 145 for staff statement.

In 1990, almost $12.5 billion will be loaned to 4.7 million borrowers, $53 billion of the total amounts loaned in the program will still be outstanding, and our outstanding defaulted student loans will reach $7.8 billion.

Defaults in loan volume has increased dramatically since the inception of the program in 1965, with great acceleration occurring from 1986 to the present. Mr. Chairman, we can look to the chart that is currently displayed and see how that volume has increased.

Senator **Nunn**. Could I get somebody to tilt that chart a little bit more this way? That is good. That is fine right there.

Ms. **Wherry**. We can see that in 1985, $1 billion was in default, and now for 1990, the Department of Education estimates that $2 billion will be in default. [See Exhibit No. 1.]

Senator **Nunn**. That is per year?

Ms. **Wherry**. That is per year.

One of the changes in 1986 that contributed to this surge in loan volume in defaults is the addition of trade or proprietary school students as supplemental loans for students or SLS recipients.

The General Accounting Office reported that their review of 1987 data showed that, although proprietary school students accounted for only 22 percent of the outstanding loans in the Title IV program, they produce 44 percent of all defaults.

Default data indicate that students who attend proprietary schools tend to default at a higher rate than those attending other institutions of postsecondary education, including the most comparable 2-year public institutions, the community colleges. Proprietary school students are largely from low-income backgrounds, attend the schools for short periods and have relatively low loan balances, factors which are related to high default rates.

The U.S. Department of Education reports that, according to its national data on 1986 borrowers entering repayment, proprietary school students default at a rate that is twice as high as that for 2-year institutions and four times as high as that for 4-year schools, as illustrated by this chart. [See Exhibit No. 2.] It shows that for 1987, the proprietary school default rate was 33 percent, whereas the default rate for 4-year colleges was only 7 percent, and the default rate for public 2-year colleges was 18 percent.

The ultimate question is whether proprietary schools have high default rates because their enrollees have these characteristics, or because of factors relating to the schools themselves. It is the Subcommittee staff's conclusion that the latter is true.

We found that serious shortcomings in the current oversight system, specifically the licensing, accrediting and certification processes, have encouraged unscrupulous school owners to take advantage of the availability of Title IV funds, because they know that the system is not set up to detect or catch fraud and abuse.

One school owner commented about the ease in getting rich in the proprietary school business, saying that the 1980's were commonly known as an "opportune time to be crooked."

Proprietary schools become participants in the Title IV program by following the same procedures as 2- and 4-year colleges and universities. Before an institution can participate in the student financial aid programs, it must go through a three-tier process commonly referred to as the triad:

First, the institution must obtain a State license to provide postsecondary education; second, the institution must be accredited by an accrediting agency recognized by the Secretary of Education; and, third, it must be certified by the U.S. Department of Education as to its financial responsibility and administrative capability to participate in these programs.

The manner in which the Department of Education considers these three components in granting participation in Title IV programs is referred to as the accrediting agency recognition process, the institution eligibility process, and the certification process.

During our investigation, we found many examples of bad proprietary schools that got into the system and, despite their problems, successfully met the requirements for licensing, accreditation and eligibility, and certification.

One of the many examples is the Chicago branch campus of a Phoenix based school which enrolled 1,500 students, and yet only 100 of those students graduated. Of the 100 graduates, only 10 were able to get jobs in the field for which they trained. The Phoenix main school was licensed and accredited in 1981.

Between 1983 and 1986, annual tuition grew from $2 million to $26 million, and the school opened 20 branch campuses. At the time it closed in 1987, the school's students owed about $60 million in student loans. Although some students may have benefited, many more paid the price for the rapid expansion of this school's operations.

The school closed completely in 1987, owing an estimated $10 million in refunds and leaving thousands of students with incomplete education. The school admitted to owing an additional $5 million in unpaid refunds to the students who had previously withdrawn from the classes. The greatest harm, however, is not financial, it is the demoralization in students' spirits and lack of hope for the future.

Senators, tomorrow the staff will devote most of the day to detailing a case study of another bad trade school, the Culinary School of Washington. We will hear more about that tomorrow.

With the triad system in place, we ask how it is that the unscrupulous schools are able to exist and thrive within a system until the damage they cause is so often irreparable. We found that these schools take advantage of the system that allows them to easily slip through the cracks.

Originally designed to operate in the traditional college and university environment, the present triad system governed by State licensure, crediting agencies and the U.S. Department of Education's Office of Eligibility and Certification, has proven largely ineffective in the area of proprietary schools.

The staff was told that the current system was originally constructed to regulate only publicly and privately owned traditional 2- and 4-year colleges and universities. As described to the staff at the outset of the Title IV program, the only participants in the self-regulatory system were educators. The business element of schools for profit was not a factor, nor was it contemplated. The system was based on the respect, honesty and integrity of the educators, with the primary motivation in education being the students' best interests.

Those same presumptions are not always applicable to the current proprietary school industry. Many proprietary schools, by their nature, focus on making money, not on providing quality education. As the staff report during the subcommittee's previous hearing on abuses in student aid programs, education has become big business.

As the President of CareerCom School in Middletown, Pennsylvania, stated in the 1990 edition of "Education Is Big Business," part of the Independent Journal of Private Career Education, "There is no way to escape being a slave to the quarterly report. Quality education and higher earnings are two masters. You cannot serve both."

Mr. Chairman, I would like to introduce for the record a copy of "Education is Big Business," part of the Independent Journal of Private Career Education. [See Exhibit No. 3.]

Senator NUNN. Without objection, it is so ordered.

Ms. WHERRY. Some unscrupulous schools may view it as a waste of money to devote resources to teacher salaries, books or materials, because this cuts into the profit of the school. One Illinois Department of Education official even suggested to us that schools are sometimes motivated to get away with the minimum and encourage students to drop out of the programs, especially if the student has completed 50 percent or more of the class. At that point, a school is not required to refund any money to the student who drops out.

Schools are marketed, bought and sold in a system very similar to the multiple listing service used in the real estate business. Additionally, school owners often earn excessive salaries, salaries which are derived primarily from a school's Title IV funds.

The "Education Is Big Business" article also reported that the President of CareerCom, of Middletown, Pennsylvania, earned $687,000 a year in salary and bonuses, compensation he defends as necessary for a vocational school to be competitive. "Otherwise," he said, "an executive would leave to open his own school and quickly net a million dollars a year."

School owners readily admit that they considered the 1980's big bucks time, since, in actuality, there is no practical barrier to any school owner who wanted to participate in the Title IV program.

Again, in this July 1990 "Education Is Big Business" article, the CareerCom President stated that, "During the 1980's, there was no barrier to entry, it was a time when anybody in that situation would have done what was done, it was an opportune time to be crooked." At every level, we found that the triad system is ill-equipped to deal with this type of profit-driven mentality.

Our review of the system revealed that, unfortunately, the effectiveness of the triad process breaks down where it begins, with State licensing. State licensing is not uniform. Most States have very weak or minimal standards for licensing proprietary schools, and State licensing efforts are generally poorly funded.

State oversight and licensing responsibility for proprietary schools is fragmented. Not only do we have 50 separate State governments with unique laws, but each State may have as many as 50 separate licensing bodies regulating the trade and proprietary schools in their jurisdiction.

In Georgia, as many as 45 separate State agencies have oversight over proprietary schools, and all these agencies have proprietary schools with high default rates.

In Florida, the Department of Professional Regulation has responsibility for cosmetology and barber schools. The Department of Transportation has responsibility for review of truck driving schools; the Department of Insurance for schools teaching insurance sales, and the State Board of Independent Postsecondary, Vocational, Technical Trade and Business Schools has jurisdiction for schools that do not fall under any other agency specialty.

Our investigation revealed that accreditation, like licensing, is ill-quipped to prevent fraud and abuse in the student loan program in the trade school area. Problem schools obtain accreditation with apparently little, if any, difficulty.

How is that these problem schools are able to get by the most relied upon gatekeeper, the accrediting agency? Several main avenues have emerged. Accreditation can be bought. We were told that owners know that they can get an unaccredited school accredited simply by buying an already accredited school and developing some connection, however tenuous, between the two. Accreditation is transferrable in the sale of these proprietary schools. It is generally a rubber stamp of approval from one owner to the next.

For instance, the owner of the now defunct Connecticut Academy in Georgia admitted to the staff that he bought his school's accreditation by buying a school that was already accredited. When the Georgia Department of Education official visited the Georgia school for license review, she found the school so substandard that the license was cancelled. She found, for example, that the school did not have proper medical equipment to teach the courses that had already been accredited.

Branching is also a problem. Branch campuses have emerged as a significant problem, because they open and automatically become accredited as part of the school's main campus, thus avoiding a site visit by the accrediting agency. Branch campuses are also an exception to the 2-year rule, which requires a proprietary school to be in existence for 2 years before it may be determined as an eligible institution to participate in Title IV funding. Congress enacted this 2-year rule to protect proprietary school students from fly-by-night institutions.

Branching is done by both unethical schools whose purpose is to profit at the expense of students and taxpayers, as well as by schools that inadvertently over-extend themselves and are forced to close before completing the program of education. Students are harmed by both of these types of schools, because they are held responsible for repaying loans for education not provided.

Our investigation revealed numerous examples where branching had been used by schools to authorize participation in the student loan program, thereby sidestepping the review process. For example, in California, the owner of the formerly unaccredited Raylin School chain, bought a small accredited drafting school in Atlanta. The accrediting agency allowed the small Atlanta school, with only 40 students, to become the parent campus for the other California schools, which taught several hundred students, and now all of the campuses are eligible to obtain Title IV funds.

Another example, the Georgia School of Bartending, which is an accredited school, purchased the Nanny Institute of Beverly Hills, an unaccredited school in California. Immediately, upon purchase, the California school became accredited and, therefore, eligible for Title IV funds, despite the fact that the two schools were totally unrelated in purpose. Soon after purchase, the school's owners opened Nanny Institutes in Georgia and Florida, each campus also automatically accredited and also eligible for Title IV funds.

Obtaining the greatest amount of Title IV funds became a goal of the school. During the interview with the staff, a former recruiter for the school stated that he was instructed to sign up students for student financial aid, even if they had the ability to pay without the assistance. After working at the school for a short time, the recruiter quit. He said that he was disillusioned and tired of lying to poor, disadvantaged, vulnerable people.

Finally, St. Mary's of the Plains in Dodge City, Kansas, is an accredited church affiliated school and, according to Kansas law, is exempt from all forms of State oversight, including licensing. Recently, St. Mary's agreed to manage a truck driver correspondence school in Texas. Because of the licensing exemption of St. Mary's, any future truck driver school branch in Kansas would also be exempt from State license. The Texas truck driving branch was automatically granted accreditation and, therefore, eligibility for Title IV funds. Reportedly, 99 percent of the Texas truck driving students are now on Federal financial aid, despite the fact that the school has never been independently reviewed for licensing or accreditation.

Another problem is that site examinations are failing to catch bad schools. Our review disclosed that schools often become pre-accredited and, thus, eligible for participation in the student loan program, without undergoing a site visit.

Branch campuses are accredited as part of main campuses, either without being visited at all or by being visited long after the deadline has passed. Moreover, site examination teams can be and have been misled to a location other than the one they are meant to visit.

For instance, South Florida Vo-Tech, formerly known as the Vocational Training Center in Miami, Florida, was accredited and was supposed to offer nursing assistant and respiratory therapy courses. In reality, the school consisted of nothing more than a few rooms, one with a desk and another with a hospital bed. The other medical equipment in the school was sparse and/or did not work.

Strangely, the only way to enter the classroom was through a big hole in the drywall. A single interior door was the only entry into an adjacent tape and record store, which sold largely x-rated material and was run by the school owner's son. The school's self-study document listed several clinical affiliations, including Jackson Memorial Hospital. When called, the hospital officials had no knowledge of any arrangement with the school. We were told by a Florida Department of Education official that, evidently, the accrediting agency was taken to another location when they conducted their site visit.

Mr. Chairman, we also found evidence that schools would move equipment, in one case a whole library, from one location to another, in anticipation of a site visit by State officials or accrediting evaluators.

New York State officials told us that when they accompanied an accrediting agency site visitation team to an Adelphi School branch campus in Brooklyn, they found that a small room which, on a visit one month earlier, they had found was being used as a storage closet, had been turned into a fully equipped library. Because these same State officials had just been to this branch, they alerted the site team personnel that the library apparently had been brought in purely for the occasion of their visit.

These suspicions were confirmed, when they ascertained that none of the books on the shelves were listed in the card catalog file and, moreover, none of the books that were on the shelves had anything to do with the subjects being taught at the school. They subsequently reaffirmed that the library was nothing more than a stage prop, by going back to the school several months later, whereupon they found that it was gone. If the State officials had not been there to alert the accrediting agency team, it is quite possible that this deception would have gone undetected.

Student complaints are often not considered in review or renewal of a school for reaccreditation, and this is another problem. Federal regulations require that recognized accrediting agencies have a procedure for the timely review of complaints pertaining to institutional or program quality. Further, the regulations require that the complaint procedure be fair and equitable to the person making the complaint and to the institutional program.

In a May 1989 Inspector General memorandum on accrediting agency complaint procedures, it was noted that three proprietary school accrediting agencies reviewed by the Inspector General's Office did have written complaint policies and procedures. However, they varied substantially in form and application. Although the complaint procedures were in effect, the agencies did not accept responsibility for complaints received related to Title IV funding. Not a single one of the accrediting agencies regarded itself, nor did it want to be regarded as a watchdog for the Title IV program. Reflecting this attitude, the accrediting agencies did not inform schools or students of the complaint procedure. Few complaints were, therefore, received, and the Inspector General had very scanty complaint files to review.

Another problem is that dual accreditation is allowed. We found that schools often seek accreditation from two or more accrediting agencies, to insure that Title IV funds will continue to flow, even if the school's accreditation is terminated by one of the accrediting agencies.

As an example—which will be reviewed in greater detail in tomorrow's testimony—Culinary School of Washington was accredited by both the National Association of Trade and Technical Schools and the Accrediting Council for Continuing Education and Training. A review of their files indicates that when Culinary School applied for accreditation with the Accrediting Council for Continuing Education and Training, it was already under the former, the NATTS, the National Association of Trade and Technical Schools' investigation concerning allegation of fraud and misconduct.

Five months after the National Association of Trade and Technical Schools had filed a complaint to revoke their accreditation, Culinary School applied for and eventually successfully obtained accreditation from the second accrediting agency, the Accrediting Council for Continuing Education and Training.

Even when there is an attempt to revoke accreditation, due process constraints regarding a revocation of accreditation can result in extensive litigation and substantial delays in cutting off Federal loans to a bad school. Schools are seeking protection in the bankruptcy courts and have been successful in obtaining automatic stays and having accreditation classified as a property right.

For instance, a student who attended the Florida College of Careers recently complained to the school's accrediting agency that he was having trouble obtaining copies of his financial aid transcripts from the school. The school had closed and he was seeking further schooling from a community college, which required his prior transcripts for him to be eligible for additional financial assistance. The accrediting agency, because of the bankruptcy petition and the automatic stay, was powerless to help and explained that they could not take adverse action against the school, because the courts have classified accreditation as a protected property right under the bankruptcy laws. Taking adverse action is the first step in revoking a school's accreditation.

Finally, there are differing expectations on what the duties and responsibilities of the accrediting agencies are. The U.S. Department of Education expects accrediting agencies to give assurance that the schools in Title IV programs will provide quality education to students. Accrediting agencies, however, object to this policing function. It creates an inherent conflict that cannot be effectively overcome, because once a school is approved by an accrediting agency, many of these agencies assume another role for the school and that is as an advocate.

The accrediting agencies argue that they are not regulatory agencies and that they lack the financial resources to perform the policing function and they reject the burden placed upon them to oversee the appropriate administration of Title IV funds at the schools. But accreditation is not the only way to check quality education.

Although the Department of Education relies on accrediting agencies to assure that schools participating in the Title IV program provide quality education, not all Federal agencies follow their example. Years ago, the Department of Veterans' Affairs discontinued their reliance on accrediting agencies to approve schools that offer quality education for veterans.

The VA had discovered that, after World War II, veterans were wasting their GI bill funds and other benefits at accredited schools that often failed to provide adequate education. To correct this problem, the VA implemented the State approving agencies program in the place of accrediting agencies. It is designed to make sure that veterans' education benefits are spent on schools which offer education that is not a ripoff.

We spoke to several people who compared the effectiveness of the VA's program to the Department of Education's reliance upon accrediting agencies. Several thought that accrediting agencies have no accountability to the public, if they effectively control who receives millions of Federal dollars. Some of these experts think that the public function should never be trusted to non-public entities. Accountability is lessened, because there is neither public election to post, nor budget control by the taxpayer, nor the entities' records disclosable.

Senator NUNN. The only problem with that theory is everything that the taxpayers are paying for in government is not working, either, right?

Ms. WHERRY. Well, we hope that is not true, Senator.

Senator NUNN. Well, I am saying that in this investigation, you did not find anybody in the Education Department or others that were doing their job properly, either, did you?

Ms. WHERRY. We found that the effectiveness of what they were doing was minimal, at best.

Senator NUNN. So, turning to the government to solve this, instead of the accrediting agencies, we would have to greatly improve government before we could take on that task, in terms of this particular program in the Education Department, would we not?

Ms. WHERRY. Yes, Senator, I agree with that.

The VA program, though, is not without its problems. The programs vary from State to State and some States administer weak programs. On the whole, however, many experts feel that, although the VA system is not perfect, it is a much better system than that of relying solely on State licensing and accreditation participation, as does the Department of Education, in effect.

The U.S. Department of Education is directly involved in two parts of the triad, selecting which accrediting agencies will be recognized by the Secretary of Education, and by certifying that the institution is financially and administratively qualified to participate in the Title IV programs.

Our review shows that both aspects of the Department's oversight efforts fall significantly short of what is needed to effectively combat waste, fraud and abuse in the student loan programs.

The National Advisory Committee on Accreditation and Institutional Eligibility is a 15-member group of volunteers who are appointed by the Secretary of Education. Their sole purpose is to review the qualifications of accrediting agencies and their applications to be recognized by the Secretary.

The Accrediting Agency Evaluation Branch is the support staff for the National Advisory Committee. They are the people who actually review the applications, gather details about the accrediting agency's qualifications for recognition, and make recommendations for the National Advisory Committee to consider in their evaluations.

We found that the U.S. Department of Education exercises very minimal, if any, oversight over the accrediting bodies. They are considered completely independent, private bodies, and once they are listed in the Federal Register as recognized by the Secretary, Federal oversight is seemingly non-existent. Within the last 10 years, no accrediting agency has been removed from the recognition list.

We also found serious shortcomings in the Department of Education's efforts in its second area of direct responsibility, eligibility and certification. According to officials within the Office of the Inspector General, the department's eligibility review amounts to nothing more than a cursory review of the paperwork. No verification is conducted to ascertain if a school actually had a valid license and if the school actually is accredited. A finding of eligibility merely depends upon the word of a school.

During our investigation, we were repeatedly told that the department's certification process does not verify the information in applications submitted by the schools that have been licensed and accredited, and allows virtually all of the schools that apply for certification and eligibility to get into the Title IV program.

This year, the Inspector General's Office determined that during 1986 through 1988, about roughly 2,000 institutions were reviewed by the Certification Branch, with approximately 97 percent ultimately being certified; 38 percent of these institutions were financially troubled and/or had administrative deficiencies.

During this period, about 150 of the institutions closed with approximately 50 of the institutions closing abruptly before all educational services were provided to students. As a result, millions of dollars of student financial aid funds were wasted and the students were burdened with debt for loans for services they did not receive.

In short, as it is now, the department's eligibility and certification process amounts to nothing more than a paper shuffle, a rubber stamp of approval, regardless of the information that is submitted for review.

Also, we found other contributing factors which allow problem schools to enter and remain in the system. There is little or no communication among accrediting agencies, the U.S. Department of Education and State licensing bodies, and no verification of information contained in applications to each triad member.

For instance, a State education official told us of a school that started a new program without prior State licensing approval and then falsely stated to its accrediting agency and to the U.S. Department of Education's Office of Certification and Eligibility that the school was licensed to offer the program. No one from the accrediting agency or the Department of Education took steps to verify the existence of the license with State officials.

The accreditation and licensing legs of the triad we have described both rely on self-regulation. Self-regulation depends upon the actual and perceived integrity of the process and assumes that schools will be treated fairly, in accordance with consistently applied and uniform rules of regulations.

Our review, however, has uncovered at least two potential problems in this regard. First, even though it could be argued that accrediting agencies and State licensing agencies operate as quasi-agents of the Federal Government in connection with their Title IV program involvement, they are for the most part not subject to Federal standards of conduct regarding conflicts of interest.

Second, accreditation bodies and State licensing agencies rely on school owners in key areas of their functional responsibilities, which, as one State official put it, is like putting the prisoner in charge of running the prison.

In short, based upon our investigation, we believe that the system by which proprietary schools gain entry and retain access to Federal guaranteed student loans is seriously flawed and needs to be fixed. Unless we take comprehensive remedial actions, we are likely to continue to face the twin problems of hundreds of millions of dollars in losses and thousands of students from already disadvantaged backgrounds being set back further in their quest to become successful contributing members of society.

Mr. Chairman, this concludes the summary of our statement.

Senator NUNN. Thank you very much. We appreciate your good work. Hal, we appreciate your good work.

You have gone through a whole litany of problems here and we have got several more hearings to do. We are just really getting started in this area. We have got whole areas that have not yet been covered, in terms of public hearings.

At this juncture, what do you recommend be done?

Ms. WHERRY. I have three recommendations. Well, there are many recommendations, Senator, which we are going to put together at the conclusion of all of the hearings on the student loan problems, but I can make three recommendations today.

First is that accreditation not be transferrable from one entity to the next when they purchase a school; and, second, that there be a limit on branching, requiring, for example, that branch campus must be located within a a 100-mile radius from the main campus. Also, that the branch campuses have to teach the same topics as the main campus.

Senator NUNN. Or be accredited in their own right, you mean?

Ms. WHERRY. Correct, in which they would have to undergo a site visit and go through the application process.

Senator NUNN. In other words, limit what one branch can do, in terms of setting up without going through the process?

Ms. WHERRY. Correct. And third, that site exams be performed by independent people, and not other school owners, which we find to be a conflict of interest. Now, there is no regulation regarding this conflict of interest, but in our judgment in conducting this investigation, the school owners that conduct these site examinations are perhaps more lenient to allow schools into the system that otherwise should not get into the system.

One of the thoughts of these school owners is that to be lenient is the thought that the school will improve with time and, therefore, the schools should be allowed into the Title IV program or at least be accredited and then be able to get into the Title IV program.

Those are my three recommendations for this morning, Mr. Chairman.

Senator NUNN. The whole apparatus is just not set up to handle very well this proprietary school area, is it?

Ms. WHERRY. In my opinion, it is not. It was not intended to regulate the proprietary schools and it is not doing an effective job in regulating them.

Senator NUNN. Have any industries taken steps to correct the process or complain about the process in their own industry? For instance, there are a lot of these people going out and working in industries. Are we hearing anything from the business world about the lack of skills or poor training going on in the schools?

Ms. WHERRY. Yes, Senator, we have heard about the Professional Truck Driving Institute of America and their certification process.

They are not happy with the type of education these truck drivers are getting at the proprietary schools that are accredited.

Senator NUNN. Who is that association? Are they part of the——

Ms. WHERRY. As far as I know, they are an independent entity.

Senator NUNN. I mean are they an instructional educational, or are they just an association of truck drivers?

Ms. WHERRY. They are an association of truck drivers.

Senator NUNN. People who are already out there working?

Ms. WHERRY. Yes, that is my understanding, that that is who they are.

Senator NUNN. And what have they done?

Ms. WHERRY. They have set up a certification process. They go to the schools. In effect, they certify the schools. It does not allow the school to participate in Title IV funding, but it gives a more thorough review of the truck driving schools and, therefore, students that are seeking truck driving education will know that a good truck driving school to go to is one that is certified by the Professional Truck Driving Institute of America.

Senator NUNN. Do they certify less schools less than are accredited to receive funds in this area of education? Are they certifying different schools? Have you got an A list and a B list, or have you looked at that?

Ms. WHERRY. I have not looked at that yet, Senator. I would be happy to take a look at that. I have some more information on it and I will get back to you on it.

Senator NUNN. In other words, do they have a list of schools they think people should not attend, that they disqualify?

Ms. WHERRY. They have a list—this is my understanding, they have a list of schools that they have certified. I do not know that they have a list of schools that they have not certified, but it is my understanding that they have information of schools they have certified and there is some type of a list.

Senator NUNN. Senator Roth?

Senator ROTH. Thank you, Mr. Chairman.

First, let me congratulate you, Ms. Wherry and Mr. Lippman, for a job well done.

Ms. WHERRY. Thank you, Senator.

Senator ROTH. It seems to me, that part of the problem comes from dealing with two different situations. One is where student loans were made to more or less established schools, colleges, junior colleges, where there is established accreditation at the State level. The other is where loans were made to high risk proprietary schools. Is that correct?

Ms. WHERRY. Yes, that is correct, Senator.

Senator ROTH. Of course, I think we all agree, that when we created the Department of Education we did not want the Federal Government controlling curriculums. That was, I believe, part of the reason this triad system was set up.

Ms. WHERRY. That is correct.

Senator ROTH. We have expanded the program to include so-called trade schools, a very desirable goal which provides opportunity particularly to those more in need than perhaps any other in the community, but the system does not seem to work there. Is that correct?

Ms. WHERRY. Senator Roth, the system does not work for some of the proprietary schools.

Senator ROTH. Sure.

Ms. WHERRY. Certainly, there are very many good proprietary schools and they are serving a segment of our society that need their help, but there are some proprietary schools that absolutely take advantage of the system. The Subcommittee staff has separated bad schools and extremely bad schools from all other proprietary schools, and we have put together a chart that reflects that separation.

This chart here represents schools that we believe are the worst proprietary schools, and taking data that the General Accounting Office has analyzed for us from the Department of Education, 1988 cohort default rates, we have come up with these figures. [See Exhibit No. 4.]

We have found that of the 2,969 schools that participate in the guaranteed student loan program, that is now called the Stafford loan program, 135 of those 2,969 schools have annual defaults, or at least in 1988 had annual defaults of $1 million or more. That represents 5 percent of all schools, and with——

Senator ROTH. Of all proprietary schools?

Ms. WHERRY. Of all proprietary schools accredited by the seven accrediting agencies that we examined. Of those 135 schools, almost without exception, they are proprietary schools.

Senator ROTH. What percentage do they represent of proprietary schools?

Ms. WHERRY. I believe there are about 6,000 proprietary schools, but not all of those participate in student loan funds, GSL. Now, that 5 percent of schools represents 54 percent of all GSL defaults from those seven accrediting agencies, so you can see how much damage a few bad schools does.

However, we do not believe that—these are the extremely bad schools, but GAO has also analyzed the 1988 data and we have come up with another chart. The first chart was our extremely bad schools illustration. This chart illustrates how many schools in the program are bad, and it is organized like this: [See Exhibit No. 5.]

The Secretary's default initiative program has targeted particular schools with default rates. That is, if a school has a 20 percent default rate, there are certain steps that it must take to reduce those defaults. If a school has 30 percent, 40 percent, 50 percent, 60 percent, up from there percentage of defaults, there are certain actions they must take.

This chart illustrates how many of those schools by accrediting agency would be subject to one of the Secretary's default management plans, not that they are. There is a heading that is just a little bit misleading. They are not currently under a management plan, but from the documentation we received, they could be. And from this, you can see that for National Home Study Council, they have almost a 70 percent, 70 percent of their students would qualify for a default management plan.

For the Southern Association of Colleges and Schools' Commission on Occupational Education Institutions, it looks like nearly 70 percent. You can see the others.

So, there are certainly extremely bad, there are a few extremely bad, there are many, many bad proprietary schools, judging from this information.

Senator **Roth**. The question I am trying to raise is that much of the problem of defaults and, more importantly, of the high binders is in the proprietary schools, which is a different situation from your established colleges.

Ms. **Wherry**. That is correct.

Senator **Roth**. So it raises in my mind a question of whether we should try to cover Proprietary Schools with the same umbrella. As I indicated earlier, we obviously do not want to control the curriculum of colleges, whether they be junior or senior, in the Federal Government, but the trade schools are a little different situation. Would you agree?

Ms. **Wherry**. Yes, Senator.

Senator **Roth**. Should Congress itself take a look at whether or not we need a different umbrella to insure that these proprietary schools, many of which serve a real purpose, are giving an education to the most needy?

Ms. **Wherry**. Yes, Senator. I think perhaps a different system should be set up or perhaps modified, targeting specifically proprietary schools. That is, the triad system which is set up for two- and four-year institutions be modified for proprietary schools.

Senator **Roth**. Let me ask one more question, as time is going on, I know. In the case of the savings and loans, many people feel that the problem is that we enabled people to gamble without risk. Here we have a loan guarantee again. Is that part of the problem here, the State has nothing at risk? Obviously, the accrediting agencies have nothing at risk, the lenders have nothing at risk. Is this a basic weakness of the program?

Ms. **Wherry**. It could be. Certainly, the Federal Government has the most risk in this situation, but I would not say that States have no risk. Now, they do not have financial risk, but it is——

Senator **Roth**. That is what I meant.

Ms. **Wherry** [continuing]. But it is their citizens that are being harmed and they do have an interest. And from our review of many State licensing bodies, they care very much, but they do not have a financial interest that even nears the Federal Government's financial interest.

Mr. **Lippman**. Senator Roth, may I just add that the accrediting agencies that we looked at, their net income in this same period of 1985 to 1990 doubled. They went from around——

Senator **Roth**. I am glad you raised that, Mr. Lippman.

Mr. **Lippman**. It doubled from about $8.5 million to about $17 million, total net operating income.

Senator **Roth**. So, in a sense, it is in their interest, financial interest, to accredit? Can that be the case?

Mr. **Lippman**. I do not know if I would go that far. I would just let the statistic speak for itself.

Ms. **Wherry**. Senator, there is——

Senator **Roth**. Is there—excuse me, please go ahead.

Ms. **Wherry**. I was going to say, there is a split of opinion on that. Some people think that it is inherent conflict, because these accrediting agencies do derive more revenue from the schools they accredit. Some people think it is not.

Senator **Roth**. Is there competition between the accrediting agencies? If I cannot get you, Mr. Lippman, to approve, I go to Ms. Wherry?

Ms. **Wherry**. There is some competition. There are different types of accrediting agencies. There are accrediting agencies that accredit entire institution's bodies, a university as a whole. That is institutional accreditation. There is programmatic accreditation, which is they would just accredit, for instance, a nursing school program or a law school program, something like that. There is also regional accreditation and national accreditation.

So, among the nationals there would be some competition.

Senator **Roth**. Thank you.

Ms. **Wherry**. Thank you, Senator.

Senator Roth [presiding]. Senator Cohen?

Senator **Cohen**. Could I ask whether there is any constitutional impediment to holding either agencies or licensing boards financially accountable for lax procedures which result in the loss of thousands or millions of dollars to the Federal Government?

Ms. **Wherry**. Senator, as far as I know, the States are not under any duty or obligation to be administering these funds, and if they are not under an obligation or duty, then I do not know that there is a way that we can penalize them for not coming up to expectations that we might have.

Senator **Cohen**. You mentioned that there is no financial interest at stake, but simply pride. It seems to me that the greatest deterrent to this kind of laxity is the pocketbook hurting more than pride being hurt.

Let me ask you another question. On page 19 of your statement, you said there were due process implications in accreditation revocation procedures and the courts consider accreditation an asset in bankruptcy proceedings. Is there any kind of comparable protection we offer the students in terms of forewarning them about schools that might be in serious financial straits before they get caught up in that?

Ms. **Wherry**. The students are complaining. They should be complaining, because they are the ones that are caught in the middle. You see, the loan obligation is between the student and the lending institution, therefore, if the school folds up, the student still must pay. That contract still exists between the student and the lending institution and it is not a defense, if you will, for the students to assert when these lending institutions try to collect against them. So, what we might want to consider is make the schools a guarantor or a party to the contract or the lending documents.

Senator **Cohen**. Let us suppose the school now is in bankruptcy. What does that do for the student at that point?

Ms. **Wherry**. Well, I would be guessing, but it might give them some type of a right against the school like other creditors, I mean they might have some type of recourse against the school.

Senator **Cohen**. But it would be your recommendation to give it some kind of priority status in bankruptcy proceedings, much as you would a tax——

Ms. **Wherry**. Actually, as far as the bankruptcy laws go, I think that we should be very clear in these situations, that bankruptcy laws do not protect these schools. You see, in many instances, these schools, they are not in financial difficulty, but as soon as they hear that an accrediting agency is going to take action against them and stop the flow of Title IV money, they immediately file a petition in the bankruptcy court which stays the accrediting agencies from taking action against them, and during the entire time of the bankruptcy proceeding or any appeal, which takes years, Title IV funds continue to flow.

Senator **Cohen**. Do you recommend, then, that we change the bankruptcy law which allows them to seek stay of proceedings?

Ms. **Wherry**. Senator, I recommend that we consider that. I do not know that it is feasible, but I think that it is something that should be looked into.

Mr. **Lippman**. Senator Cohen, could I just interject something? One of the witnesses who will testify later cites a court case where they placed the value of accreditation at $150,000.

Senator **Cohen**. Who pledged it, the school?

Mr. **Lippman**. No, the court assessed the value of accreditation at $150,000.

Ms. **Wherry**. I believe what he is referring to is the bankruptcy petition and the damage that would be done to a school if the court were to not grant bankruptcy protection, that is, they would be hurt to the tune of $150,000.

Senator **Cohen**. The problem we have is a nice Catch 22. On the one hand, if you have got the State licensing board to take a look at the school or an institution, saying this is jeopardizing the integrity of the program and the students' educational opportunities, and the State takes action to shut it off, we then have a conflicting protection within the bankruptcy court to prevent that from occurring. The only ones who gets hurt ultimately are the Federal Government, if the thing goes belly-up, and the students.

Ms. **Wherry**. That is true. At that point, it is very difficult to correct the damage that is done. That is why I think it is important to tighten up this system at the very, very beginning of the process and only let better qualified schools into the program.

Senator **Cohen**. Senator Roth was raising an important distinction, I think, between the proprietaries and the public and private schools. Is it your judgment that accreditation is unworkable in a for-profit setting?

Ms. **Wherry**. I do not think it is unworkable totally. I think that the process needs to be restructured, because if proprietary schools need to be accredited in order to get Title IV funding, these students need the money, so to just cut them out of the student loan program would be I think devastating to these students.

Senator **Cohen**. I guess the question is why is it working well, if it is working well, in the public-private school system, and not working well here? What is the key ingredient? Is it that the student population is not paying the loans back? Is it a question of State licensing boards, the accrediting agencies? What is different about the proprietary schools?

Ms. **Wherry**. There are many things that are different about proprietary schools, Senator. One of the things is this change of ownership. For colleges and universities, you do not have schools changing ownership every six months or a year. You do not have people involved in the university system, educators that are worried about making $1 million a year. You do not have these educators worried that they make a lot of money and not care about the education that these students are getting. It is not profit motivated.

Senator COHEN. You indicated also that relying upon school owners to be members of the accrediting team is like putting the prisoners in charge of the prison. But private and public institutions have professional educators on the accreditation teams.

Ms. WHERRY. Well, they do not have a personal interest. For instance, if someone is from a university an they are looking at another university, there is no financial motivation there to cover up or deceive in any way the stability of that institution.

Senator COHEN. So, it does come back to the proprietary nature?

Ms. WHERRY. Yes, Senator, I believe that it does.

Mr. LIPPMAN. Senator, it also assumes the integrity of the people in the process and you will find, as the witness who will follow us will testify how easy it was to deceive people by simply filling in the right blanks, and if somebody does not want to tell the truth in operating their school, they can and the system is geared to accommodate that.

Senator COHEN. Thank you very much, Mr. Chairman.

Senator ROTH. Just one question, while we are waiting for the Chairman to return. There was a time when there seemed to be a concern that many students were going through bankruptcy. Is that still a significant problem?

Ms. WHERRY. I think you are talking about a different type of student, that is students that go to college, they go to professional school, they become doctors, lawyers, and to keep from having to repay perhaps $50,000 worth in student loans, they immediately file a bankruptcy petition and that debt is eliminated.

Senator ROTH. Right.

Ms. WHERRY. That is not the focus of this hearing.

Senator ROTH. No, I know that. I am asking whether you had any information as to whether there was still a high incidence of that problem.

Ms. WHERRY. It has not come up as a problem related to proprietary schools.

Senator COHEN. Could I ask you one other question? When they file these Chapter 11 proceedings, is there any provision which notifies students of the existence of the Chapter 11, or is it just something that is published in the local paper?

Ms. WHERRY. I would assume that the regular legal notices would be all that that student would have to rely upon, other than, I suppose, the notice on the door of the school when they show up for classes, that the school is under bankruptcy or something like that, perhaps.

Senator COHEN. I think there is greater notice required for businesses who are doing business with that particular institution. They get a different kind of notice, do they not?

Ms. WHERRY. Actually, I cannot comment on that, I just do not know.

Senator NUNN [presiding]. Thank you very much, for hearing from you again. We appreciate your good work, you and Hal both. Thank you.

Our next witness is Tommy Wayne Downs. Mr. Downs worked previously in other proprietary schools as a commission sales representative and a financial aid administrator. He is currently incarcerated for developing a scheme by which he defrauded the Government of thousands of dollars in guaranteed student loans. His testimony will give us an insider's perspective on how he and others have been able to manipulate and abuse the guaranteed student loan program.

Mr. Downs, we appreciate your being here today and look forward to your remarks.

We swear in all the witness before our Subcommittee, including staff and everyone else, so if you will hold up your right hand.

Do you swear the testimony you give before this Subcommittee will the truth, the whole truth, and nothing but the truth so help you God.

TESTIMONY OF TOMMY WAYNE DOWNS, FORMER TRADE SCHOOL OWNER,[2] ACCOMPANIED BY D. TONI BYRD, ESQ., ATTORNEY FOR MR. DOWNS

Mr. DOWNS. I do.

Senator NUNN. Thank you. I believe you have with you Ms. Byrd, and maybe you could introduce yourself, Ms. Byrd. You are here as an attorney, is that right?

Ms. BYRD. Yes, I am, Senator. My name is D. Toni Byrd and I represented Mr. Downs in one of the cases about which he will testify today.

Senator NUNN. You are not going to testify today, are you.

Ms. BYRD. No, I am not.

Senator NUNN. We certainly accord witnesses the opportunity to have their attorney present, and Mr. Downs, if we ask you any question that you are uncertain about and would like to confer with your attorney, we would be delighted for you to do that.

We appreciate you being here. We know it is not that easy to talk about the activities you are going to be revealing to us today, but it will help us. It will help the Subcommittee, and I think it will help the Senate and the American people understand some of the problems from an insider's perspective. So we are here to hear your story as you choose to tell it.

Mr. DOWNS. Thank you, sir. My name is Tommy Wayne Downs. Between 1984 and 1989, I was involved with the proprietary school industry, first as a recruiter and then as a student financial aid administrator, and finally as a school owner. I worked for three schools between the years of 1984 to 1986, and was part or total owner of three others between 1986 and 1989. All of the schools with which I was associated participated in the Federal guaranteed student loan program and were accredited by agencies recognized by the United States Department of Education. I am presently serving a prison sentence for fraudulent acts committed in connection with the Federal guaranteed student loan program.

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[2] See p. 174 for Mr. Downs' prepared statement.

I am testifying today in the hope that my experiences, both good and bad, may in some small way help this Subcommittee and the American people to understand the problems that exist in the Federal student loan program.

My introduction to the proprietary school business was in Nashville, Tennessee, which is my home, as an area recruiter for the North American Training Academy. This is a National Home Study Council-accredited truck driving institute and they train truck drivers at home primarily. During the 4 or 5 months which I was with the school I became the number one salesman in the Nashville area. In one 3-week period I signed up some 180 students and won a contest as a result of this. My commission for each student signed up ranged between $75 and $100, and this depended on whether the student became a Federal financial aid recipient and completed the program in which he had been enrolled.

In the proprietary school business you basically sell one thing, dreams. So 99 percent of the sales that were made in what I was doing were made in poor, black areas of Nashville. I focused my attention on welfare offices, unemployment lines, and housing projects, where I became so familiar that some of the residents referred to me as the "truck man." My approach to a perspective student was that if he could breathe, scribble his name, had a driver's license, and was over 18 years of age, he was qualified for North American's program. My tactics included making down payments for the prospect, the amount of which would be reimbursed to me back for my commission, and even going so far as to accompany the prospect to a pawn shop in order for him to sell something to obtain the money for this down payment. All of these tactics were approved and even encouraged by the school's owners and management.

Subsequently, I was hired by the owner of a National Association of Trade and Technical Schools-accredited school, International Barber College, also in Nashville. At this school for the first time I got heavily involved with student financial aid. In fact, even though it was a violation of both NATTS and U.S. Department of Education policies, I did both recruiting and financial aid work at the same time. In the course of doing the financial aid, I learned about one of the Federal student loan program's loan guarantors, the Higher Education Assistance Foundation, or HEAF. In my dealings with HEAF I soon discovered that it was what I would call a school owner's dream and a source of almost instant money. In contrast, for example, to the Tennessee loan guaranty agency, which took from 6 weeks to 3 months to turn around a loan and get us our proceeds, it took approximately 6 working days for HEAF to turn a loan around. I also found that HEAF was "loose as a goose" administratively and in its review processes. Almost anyone could get a loan through HEAF if they could figure out how to fill in the blanks on its computerized forms and deal with its easy to satisfy "Kelly Girl" administrative personnel.

After remaining with the International Barber School for approximately a year, I became associated with another individual who purchased the Rogers School of Hair Design in Nashville. This was also a NATTS accredited school and the previous owner was going on to the Tennessee Barber Board and the gentleman with whom I was associated was coming off of the board. The reason I am mentioning this is that the gentleman who went on the board, the previous owner, was the one who did the State site visit to accredit the school for the State after it was purchased and the exchange was made.

While the appropriate State authorities were notified of this purchase, my partner and I decided to ignore the NATTS and U.S. Department of Education requirements regarding such notice. We did so because we did not want to risk an interruption in the flow of Federal financial aid to the school. We never did notify the U.S. Department of Education, and sent NATTS the paperwork some 6 to 8 months later, only because we decided to change the name of the school from "Rogers" to "Guideliners." Neither NATTS nor the U.S. Department of Education ever questioned the fact that we had failed to notify them about the change of ownership. After we notified NATTS of the name change, NATTS never exercised its option to do a site visit, as provided for in its procedures. In fact, to the best of my knowledge, NATTS never made a site visit to that school in the years that I was associated with it.

My new status as part owner provided me with the opportunity to test some ideas that had been developing in my mind since I had learned about student financial aide and the seeming ease with which loans could be obtained through HEAF and its participating lenders. I decided to invent a fictitious student, complete with false name, address, and Social Security number, and to run it through the system for a guaranteed student loan.

My initial test of the system was successful, and from that time, which was approximately March of 1986, through February of 1987 I submitted false GSL applications to HEAF that lead to some $175,000 in loans through its participating lender, the Norwest Bank of South Dakota. The scheme was accidentally uncovered when in my absence a secretary at Guideliners received a copy of a HEAF computer printout listing the school's loan transactions for a certain period of time. The secretary noticed that there were many names on the HEAF list that she did not recognize as being students at the school and therefore called HEAF to ask them if they had sent the correct list. They looked into it and subsequently a Federal investigation was launched and I was convicted of fraud in August of 1989.

Another opportunity to acquire a school unexpectedly came my way in November of 1987, and I purchased the Harrisburg Barber School for a price of $1,000. This school had also been accredited by NATTS but was deeply in debt at the time of the purchase. The owner from whom I bought it had never even notified NATTS of his purchase 18 months previously, so that that ownership had never been changed. I also found that the school was scheduled for a re-accreditation visit in December of 1987, less than a month away. I immediately came to Washington to discuss the state of affairs of that school with NATTS officials, and these people gave me an extension so that we could straighten the situation up there before a site visit was done.

A site visit was made in November of 1988. While I worried greatly about it prior to the visit, I had to have a little chuckle after they left because it was so easy. In the first place, none of the members of the NATTS site examining team had ever been to a barber school before and they knew nothing about cutting hair and the curriculum side of it. Secondly, the team members reviewed files that the school provided them. They asked for files from students that were presently there, students who had recently graduated, and students who had graduated approximately a year before. These files we picked from our filing cabinet and gave them so that we knew what file they were looking for. The team was at the school for only 1 day from approximately 9 o'clock to 3 o'clock.

While I respect NATTS and the good intentions of its staff and the visitation team members, I think that the site visit process is definitely flawed because the very fact that most of the people on a team are also school owners. As was discussed a few minutes ago in connection with another question, you can easily be put into a situation where you could be visiting a school today and within a year the owner of that school could be visiting yours. So that circumstance makes it where it is very easy for you to be lenient or to look over things that might definitely be different. I should think that the accreditation people should make some changes in that definitely.

At the Harrisburg school, even though I was already under investigation for committing the same offense at Rogers/Guideliners School in Nashville, I began to do again bogus loans, and in just 2½ months, between May and July 1988, ran $270,000 worth of loans through the system. I was caught when an employee of a secondary market purchaser of student loans, the Western Loan Marketing Association, notified HEAF of discrepancies that had been found in the loans. And subsequent to that, the Federal authorities were notified.

I must point out that while HEAF did investigate the situation and alert the appropriate authorities, HEAF people also approved the GSL applications, even after they knew that I was under investigation for my activities at Rogers/Guideliners.

In closing, I would like to say that I have every reason to believe that were I released from prison tomorrow, and unless some drastic changes have occurred since I have been incarcerated that I am not aware of, I could go out and do the very same thing again. It is simply too easy to get loans approved with no one checking on the facts given on the loan application. For example, I believe even now that HEAF's guarantee institutions and Federal agencies have no authority to, for example, verify Social Security numbers. It is very easy to use slum addresses and addresses of highly transient areas so that people cannot be detected or found.

In addition, as far as I know, HEAF does little more than monitoring the status of a student loan recipient beyond sending out a form every few months to the school asking that the school tell about the student's current status. I believe that I could check the right box and move a ghost student from program to program, extending his seemingly legitimate status for years and collecting loan after loan before anyone would actually audit the file and determine that the student even existed.

Gentlemen, I thank you for this opportunity to speak with you and I will be happy to answer any questions that I might be able to for you.

Senator **Nunn**. Mr. Downs, you said you were under investigation in one school and you moved to another one and started doing the same thing again. Didn't you worry about the investigation? Didn't you worry about getting caught?

Mr. **Downs**. Well, from a criminal standpoint of course I worried about getting caught. From a standpoint of what HEAF and other people did, no. As I said in my statement, Senator, they are loose as a goose. I ran a test and it worked, so they just let me continue. I was shocked when they let me start writing even legitimate loans for that school, but they did.

Senator **Nunn**. You mention in your testimony that in the case of two schools you purchased, you notified the accrediting agency, NATTS, in one case many months after the purchase because you were changing the name and in the other case you didn't notify them at all. How is it possible that ownership can change and that NATTS doesn't care about it?

Mr. **Downs**. Well, to say they don't care—they do care. They have regulations that say if ownership changes you must do X, Y or Z. But if you don't tell them it has changed, they have no way of knowing that it has changed.

Senator **Nunn**. There is no procedure at all that requires them to be notified? They are required to be notified, you are just saying you just don't do it; is that right?

Mr. **Downs**. That's correct.

Senator **Nunn**. But you are violating the regulations when you don't do it?

Mr. **Downs**. That's correct, sir.

Senator **Nunn**. Is there anything that you know of from the insider's point of view that could be done to change that?

Mr. **Downs**. Well, to me there are some basically logical things. You know, here again, if you are going to be guarding against these type things, if you just train your staff to listen for new names, new people that they are dealing with. If you have talked to the same person over a period of time and then suddenly that person is not around anymore, an alarm bell should go off, or at least you would ask the question.

Senator **Nunn**. You are saying that the people working in this area just aren't trained properly then?

Mr. **Downs**. I don't think the people at NATTS, or any accrediting agency, are trained to be police officers, and that's basically to a certain degree what you are talking about. The same situation with HEAF.

Senator **Nunn**. Do you have any idea how many Wayne Downs there are out there right now milking these programs?

Mr. **Downs**. I have no statistical knowledge, no. As far as—

Senator **Nunn**. Do you have any guess? Are we talking about a large number?

Mr. **Downs**. I think so. That is my assumption, yes. I don't think I am that unique. I am not that smart.

Senator **Nunn**. Did you talk to a lot of people that were doing this?

Mr. **Downs**. No. Here again, this is something if you went to a school owners' meeting you certainly didn't get up in a hotel room and tell them what you were doing and say, "Hey, gee, let me tell you about this little deal."

Senator **Nunn**. There is no chain or network here then, that you know of?

Mr. **Downs**. Not to my knowledge, no, sir.

Senator **Nunn**. Yours was simply an independent act?

Mr. **Downs**. Totally and completely, yes, sir.

Senator **Nunn**. And you don't know of any kind of organized effort anywhere else?

Mr. **Downs**. No, sir.

Senator **Nunn**. This is just an opportunity that is so apparent that a lot of people naturally are going to take advantage of it?

Mr. **Downs**. Yes, sir.

Senator **Nunn**. What about the number of bad schools, do you have any way of even estimating that?

Mr. **Downs**. Mr. Chairman, let me answer your question with a question. It depends on the definition of an unscrupulous school.

Senator **Nunn**. Let's divide it into two categories. One, let's say committing real fraud. You really committed fraud on the Government. What about that category?

Mr. **Downs**. That committed fraud like I did, I would say it is very, very minimal, because of any number of factors, the fear of being caught, the fear of going to jail, et cetera. That area is minimal.

The area of pseudo fraud, if I can use that term, is very high. As I pointed out yesterday to your staff, for a quick example, regulations say that a person who is in default of one student loan cannot get another one, but the only way you check that, to my knowledge, is there is a little box on the application, and if I am a recruiter and I am asking that student, and that student coming to me means money, I am going to probably check "no." That happens a lot.

Senator **Nunn**. Well, that is still fraud, but that is just not as flagrant as what you are engaged in, right?

Mr. **Downs**. Yes, sir, it is.

Senator **Nunn**. You think there is an awful lot of that going on?

Mr. **Downs**. Certainly.

Senator **Nunn**. You indicated in your testimony that you didn't have much to fear from the U.S. Department of Education, either over the fraudulent scheme you developed or over the overall operation of the schools. What is the reputation of the U.S. Department of Education in this area from people on the inside who are manipulating.

Mr. **Downs**. If you check the right box, you are sliding right along.

Senator **Nunn**. It is just a paperwork drill then?

Mr. **Downs**. Sure. I mean, you can call over there and it may take you a week to get somebody that can give you a definitive answer, and that says who you want to talk to has gone to the bathroom, and that is the way it is.

Senator **Nunn**. Is it because they don't have qualified people that are looking for fraud and abuse? Is it because they don't have the right training? Is it because they don't have enough people? What is the problem?

Mr. DOWNS. Truthfully I can't say. I can't answer that exactly. I feel that in some areas it is they are unqualified.

Senator NUNN. How about State licensing agencies, what States were you operating in?

Mr. DOWNS. Tennessee and Pennsylvania. Now, as the earlier testimony indicated, we did not come under the State Department of Education. We fell under Barber Boards, or the Barber Board of the State. Here again it is a joke. The Barber Board is interested in how many teachers you have got and whether the bathroom is clean. That is their basic area of where they are supposed to work, and that is what they do.

Senator NUNN. They are not looking at anything relating to the qualification of the teachers or the background?

Mr. DOWNS. Well, yes—and here again I am speaking strictly from the barber industry—most States have certain requirements for a barber teacher, but basically they are longevity in the business. One of the things that we did in our schools was we actually had a program to teach teachers how to teach. We found that we could hire people that knew how to cut hair but they didn't know how to teach another student how to do it, so that was it. But the Barber Board itself had no control basically over that at all.

Senator NUNN. Well, in the schools you were involved in, at one point you worked for a school and on two other occasions you were either owner or part owner. Go through each one of those and tell us whether in each case there was any concern by the owners and the people involved about the students themselves.

Mr. DOWNS. All right, let's start with the truck driving school.

Senator NUNN. This is the one you worked for?

Mr. DOWNS. Yes, sir, this was my introduction to the school business. All they were interested in was bodies—I mean, total, literal bodies—in the end that I was involved in. We were instructed, prodded, goaded. I mean, literally, if you could walk and breathe, you were a potential truck driving student.

I was involved after that—and it is not in my testimony because it really wasn't relevant—for a short period of time with a secretarial-type school, and the quality there was the best it could be under the financial circumstances that the man worked under.

Now, as far as the barber schools that I was later associated with, I cannot question the quality of the education the student received. There again, that is an enigma sometimes in this business, but the students received a good education. They knew what to do when they left the school, if they came to school and learned.

Senator NUNN. What about the Department of Education site visits? Do you have any observation on that, when they actually came to the school?

Mr. DOWNS. The only site visit that I was ever in any way party to was a regional audit at the secretarial school I mentioned. A lady came in and my dealing with her was very minimal, so I really can't comment. I never had a Department of Education person in any one of my other schools that I was associated with until the Inspector General showed up.

Senator NUNN. Senator Roth.

Senator ROTH. As someone who has been involved in running proprietary schools, do you feel that a basic problem with the system is that the banks really have no financial risk and that this program has been an entree into the U.S. Treasury? Would it make any difference if the proprietary school had some financial risk in these programs rather than being dependent on or being able to rely on the Government?

Mr. DOWNS. Senator, yes, it would make a big difference, it would destroy the program. Here again—and not to teach you about the GSL program—but what makes it what it is is the fact that the Government guarantees it. The student or the applicant makes no credit application. In fact, if you look at an application, there is no place on it to even ask if you have ever borrowed money before. That is not the basis of qualifying for the program.

But when you let a school start underwriting these loans—and that is what basically, if I understand your question correctly, you are talking about—then the lending institution is going to have to start looking at the financial ability of that school in case of default.

Now, that is going to kill the program, because no bank is going to underwrite a school unless that school—if the school is in that shape, they don't need the GSL program, they can just front the money out for the student and let them go.

Senator ROTH. But shouldn't they take some responsibility? The problem now is that the school, as you say, has no responsibility. Neither does the bank.

I hate to keep harping back to another miserable situation, the S&L, but what Congress has set up is an arrangement where people can exploit a program, a program that was designed for a worthy purpose. The fact is, however, that skillful operators have found a means of getting their foot into the U.S. Treasury without any financial risk to themselves. Isn't that the problem?

Mr. DOWNS. That is a good portion of the problem, yes. But again, as I said a minute ago, if you ask the school or the school owner to have to in some way financially underwrite the program, then you are going to see probably less than 5 percent of the trade schools that are now in existence in America be able to survive, because the bank is not going to underwrite them. It just won't do it.

Senator ROTH. I am not sure that the bank should have the 100 percent guarantee either. The problem is that all the risk is on the U.S. taxpayer.

Mr. DOWNS. Yes, sir.

Senator ROTH. I might point out that Congress has a responsibility here. Reforms have been offered and enacted in the Senate, but have not been enacted in the House. A major part of the problem is that Congress has used the device of loan guarantees, which, on the surface, don't seem to increase the deficit. In reality, these loan guarantees have been a cheap way to try to do something, and it is beginning to come back to haunt us.

But let me ask you this. Let's assume tomorrow you are sitting up here rather than down there, which is not necessarily impossible. What would you do to make this a workable program in which the poor and the needy are getting a decent education and the Government is getting its money's worth?

Mr. Downs. First of all, let me say that the chances of one of you gentlemen being in my position are probably greater than mine being in yours. [Laughter.]

Senator Roth. The exception is noted.

Senator Nunn. No need to narrow that down as to which one.

Mr. Downs. On a serious note, I think that here again it is like any bureaucratic system. Bureaucratic systems, as you gentlemen well know, have a tendency to develop big cracks real quickly. As I said in answer to the Chairman's question about verification, let the people that are doing the guaranteeing do some more policing. Require them to do some more policing. Require them to hire and train a staff.

One of the things that got me going, if you want to say that, is I discovered that the girl who was approving these loans was a temporary employee from like a Kelly Girl agency. She is sitting there with an application putting it in the computer, and as long as the boxes are filled in it gets approved and a check kicks out the other end.

Now, the fact that she had never talked to me, and one day suddenly here I am on the phone with her, it set off no alarm bells that maybe there is new management at that school. The fact that a school—and to me these are basic things—you have a monthly printout of your computer of the volume that a school is doing. When a school has been averaging say 10 loans a month and suddenly there are 175 applications being processed, to me, if I were sitting on the other side, an alarm bell would go off. I would start saying, "Gee whiz, what have these people done to change things to generate that kind of business all of a sudden?"

That is where it needs to start, with those people. How much does it cost to hire one person to do nothing but sit at a WATS line and take an application and say, "Let's call Suzy Smith and see if she actually applied for this loan." Very, very little cost factor involved to do that, for somebody to do that all day.

Sure, there is going to be a certain amount of Suzy Smiths you get that are going to say, "Well, yes, I went by there but I have changed my mind." That's fine, that doesn't matter. But when you get four or five of those from the same school and nobody can answer the phone and you call them and they say, "Gee whiz, that person doesn't live here, you must have the wrong number," an alarm bell ought to go off. And none of that is done to my knowledge, Senator.

Senator Roth. My concern is that Congress is adopting a number of unmanageable programs, at least unmanageable in part. You said that your practice originally was to go into the poorer parts of town and sell people a dream, I think was your testimony.

Mr. Downs. That's correct.

Senator Roth. Is it realistic to think those people, if they go to a program, are ever going to pay, or maybe this should be a grant program?

Mr. Downs. That is an interesting question. I think that you have said something that is another part of the program that has not always been a focus. And that is that by and large the student that a proprietary school deals with, whether they be a good student or a bad student, comes from a basically irresponsible background. Many of them come from backgrounds where an obligation to pay something is a foreign object. Many of my students in my barber schools were third and fourth generation welfare recipients. Many of them will default on those loans, or have defaulted, simply because after they graduated they refused to take a job.

We offered them employment, secured them employment, and they refused to take it because they said, if I take that job I will lose my welfare benefits, and that is more important than this is. So when you go out and search, or when this is a basic of your student body to start with, you have to a certain degree opened the door to irresponsibility, yes.

Senator ROTH. One final question. You said you went to these areas to sell this dream. Common perceptions are often that many of these individuals would not want to go to school. But is it your experience that in fact many of these impoverished people with no opportunity do want schooling and for that reason were willing to take you up on your dream?

Mr. DOWNS. Okay. You have to understand that the statement that I made in reference to that and your reference to it was to a home study school, so basically they had to make no effort other than go to the mail box, which was on their front porch.

I think that in relation to other areas and other people, there is a certain amount of definite desire to improve themselves, and if you can find that person, they will do well, and they may not be geared for a college level type education, they are a trade school person, if you want to use that term.

Sure they are there. By the zillions, no. One of the things that we were encouraged to do North American was when you went into that guy's house, after you talked to him, get him to take you next door and talk to that guy, even though that guy didn't know you were coming. But talk him into, "Hey, you want to be a truck driver, get out there on the road and drive those 18-wheelers, get out of this project."

Anybody is going to bite for it if it is not going to cost you anything. They didn't have one dime invested in anything. All they had to do was sign their name, and a good salesman can talk them into signing their name.

Senator Roth [presiding]. Well, I can see you are a good salesman. Senator Cohen.

Senator COHEN. Mr. Downs, you indicated in your statement that you could go right out of prison and do it all over again because of the system's laxity, right?

Mr. DOWNS. I said it is possible to do that, I didn't say I would do it. I have got enough time as it is. I am retiring.

Senator COHEN. You would not do it again?

Mr. DOWNS. No, sir.

Senator COHEN. And that is because of the sentence you received? Have you gotten religion?

Mr. DOWNS. No, I carried religion to jail with me.

Senator COHEN. Why not? Is it the penalty that did it?

Mr. DOWNS. Well, the bottom line is, with all due respect sir, that I don't want to go back to jail, plus the fact that my sentence is such that I would not be able to. A parole officer is not going to let me go to work at a school. He is probably not even going to let me drive by one.

Senator **Cohen**. And certainly not run for Congress, right?

Mr. **Downs**. No, I don't think he will let me run for Congress either.

Senator **Cohen**. You knew about the penalty before you committed these acts, right?

Mr. **Downs**. Yes, sir.

Senator **Cohen**. And that was no deterrent to you?

Mr. **Downs**. No, sir.

Senator **Cohen**. So simply increasing the penalty would not be a deterrent in your judgment?

Mr. **Downs**. No. And here again, the rewards can, believe it or not, justify the penalty to some people. I mean, you are talking about the ability to steal unfathomable amounts of money, if a person wants to do that.

Senator **Cohen**. Is there a need for some kind of direct face-to-face contact? What you describe is a situation in which we have phantom students. All you have to do is just create a piece of paper to an unscrupulous individual who happens to run a particular school, set up a paper trail and this phantom goes through the system and you collect the money.

The students never go to the bank, right? The bank has no direct involvement with any student. The banks rely upon the institution?

Mr. **Downs**. Correct.

Senator **Cohen**. They rely upon the institution having been accredited by people who really never deal with the institution itself.

Mr. **Downs**. That's correct.

Senator **Cohen**. You also indicated that the group that came to site check the barbering school, were virtually incompetent. They knew nothing about barbering you said. Did you know anything about barbering?

Mr. **Downs**. No, I'm not a barber.

Senator **Cohen**. So we have a situation where the incompetents are supervising the other incompetents who are getting all the money?

Mr. **Downs**. Correct.

Senator **Cohen**. Should there be any kind of a restriction upon people who are allowed to own certain types of schools who offer themselves out to teach young students, young people, a trade? Should there be some kind of professional requirement?

Mr. **Downs**. No, sir, because, first of all, I never held myself out to be a barber. I never indicated to anyone that I was a barber or hair stylist, or had any expertise in the hair business at all. My area of interest was the business side of it, as far as that is concerned. I relied on people who were very capable and competent instructors in the hair business to handle that side of the business.

Senator **Cohen**. But the people coming in to make the site inspection had no expertise in that field?

Mr. **Downs**. No, they did not.

Senator **Cohen**. The site inspections make no difference then? You can have the same level of incompetence from Washington or wherever that you can on the site?

Mr. Downs. The major things they were interested in on the site inspection were, A, questioning us about our recruiting techniques; B, looking at lesson plans and that type of thing just to see that we had them. Here again, I don't think the person who came and looked at the lesson plan would have known whether we were adequately teaching someone to use a set of clippers or shears. And see some basic perfunctory financial information about the school and questions in regard to number of students enrolled, number of students dropped out, completed, et cetera, and looked at some of that filing. And that is basically about it.

Senator Cohen. You mentioned one of the schools, I can't recall which one now. It is one of the initial ones you went to you—it was like the body count approach? You were talking to Senator Nunn about that.

Mr. Downs. Yes, sir.

Senator Cohen. In essence, they were paying you a bounty?

Mr. Downs. Commission, bounty, whatever.

Senator Cohen. Should there be some kind of restrictions? Should we prevent funds from reaching those schools who use this kind of technique of paying commissions to individuals to go out and hustle up business for them?

Mr. Downs. No. You know, here again—and when you say should we stop people from going out and recruiting students, my innate nature is that I am a salesman, so I say no, don't stop people from selling. There should be controls and more stringent types of regulation. Here again—let me say this—you can regulate all day long, but if you don't back it up some way, it is just something on a piece of paper. So there needs to be stronger enforcement of regulation rather than regulation, if that answers your question.

Senator Cohen. Well, I come back to the face-to-face aspect again. You talked about the pseudo frauds in the country. I don't distinguish that between fraudulent and pseudo fraudulent. I think that you and the others are all fraudulent who participate in this kind of a program where you check somebody off who has no ability to pay and is not going to be able to complete the program just to get the body inside. But there has to be some kind of face-to-face dealing with this process.

For example, how do you ever have tighter supervision? One of these school owners as such checks off a box and says this student qualifies, he has never defaulted before.

Mr. Downs. Very easy.

Senator Cohen. How many guarantee agencies would think you used a fraudulent name?

Mr. Downs. Well, Senator, with all due respect, that comes down to locks are only made for honest people. Anybody, if you want to get around it bad enough—I mean, with all due respect——

Senator Cohen. You would devise a way to get around it?

Mr. Downs. I was going to say, I proved that already, you know, the ghost people. But on the face of it, all you have to do—like, as I mentioned the defaults, put everybody that is defaulting on a loan in a computer and let these guarantee agencies tie into that computer. We are living in an age that, you know, with computers we can supposedly do anything. But these people guard this stuff. It possibly maybe has something to do with the information laws, I don't know that. That may be part of it. But part of it is these guarantee agencies are just like everybody else, they are in business to a certain degree to make money, and those are their customers, they want to guard them.

Senator **Cohen**. Should we take the profit out of these schools? No more proprietaries?

Mr. **Downs**. No, I am sorry, that to me is innately un-American.

Senator **Cohen**. What seems to be innately American is people who are feeding off the carcass of this program and who are in fact proceeding in a way that is going to destroy the very essence of the program by seeking these kinds of devices. We don't find this in the college programs that we have in the private and public schools.

What it is that is so inherent about this one that makes it so subject to abuse?

Mr. **Downs**. Well, I think that here again you have basically left the door open to the cookie jar.

Senator **Cohen**. But you said this before, "They let me continue to commit crime." You kind of shifted the burden on to society that let you continue to commit the crime.

Mr. **Downs**. No, I didn't say society did. I was referring to HEAF. I was referring to the guarantee agency allowing me to continue to write loans and do what I did even though they knew what I was doing on the front end.

Senator **Cohen**. That's all I have, Mr. Chairman.

Senator **Nunn**. Thank you, Senator Cohen.

Senator Lieberman.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator **Lieberman**. Thank you, Mr. Chairman.

Very briefly, I thank you for conducting these hearings, and I thank you particularly for bringing this witness forward, who to me has been unsettling, but very helpful. I here, Congress has seen a problem, and in response has created a good program—the GSL program. The program applies to proprietary schools as well as other schools. A lot of them proprietory schools are doing a superb job at meeting one of our society's major needs, which is providing skilled workers in various fields. And yet others are clearly taking advantage of the system.

Here is a man who is very bright, very able, very engaging, and by who, his own testimony, took his religion to jail with him. And yet, because of human nature and the way the program is being operated, he took advantage of the program and ripped off the Government, and now ends up in jail, and I presume embarrassed and ashamed about what happened. I hope that your testimony will help us in trying to preclude others from doing what you did.

It seems to me, from what I know about this program, that yours is not the usual case. In other words, I would like to believe that the out-and-out fraud cases are minimal, and I am curious about what your sense of that is.

Mr. **Downs**. Well, as I answered earlier for the Chairman, what I did, and anyone doing something like me is not something that you would go to a school owners' meeting and sit around in a hotel room and discuss. So to say that there is 50 percent or 20 percent or 1 percent doing what I am doing, I can't do that. I'm sure there are other people, I'm not that unique.

Senator **Lieberman**. But you didn't specifically talk to others who were involved in the same kind of activity?

Mr. **Downs**. No.

Senator **Lieberman**. My understanding is that the typical kind of fraud is more subtle: students are in a sense, sold into educational programs and then, because of the way the programs are set up, the schools, have no incentive to encourage students to finish the program.

Let me just ask you a couple of questions about how the law might be changed. When school signs up a student, who qualifies for the GSL program, the loan money is put in an escrow account. When the student completes 50 percent of the program, the school gets all the money, so it has no incentive, except pride I suppose, to help that student to finish the program.

Should we change that balance? Should we parcel the money out in smaller pieces until the student completes the program? Would that give a school the motivation to help a student finish his program?

Mr. **Downs**. Well, that is hard to answer in just a specific answer. There are a number of things that I think that you have to do to get a student to want to finish the program, and to get there you have to look at why doesn't a student finish. As I answered earlier, a lot of the students that come to proprietary schools come from basically unmotivated backgrounds to start with. So not only do you have to teach the student the skill of putting the thing in the ink pen, you have to motivate him to want to do that.

One of the big ways of doing that is that he is going to have a job out there when he gets through, but that doesn't always work. There are other motivations that you have to come up with because that doesn't always work. I can't answer that further than that. I don't know how to——

Senator **Lieberman**. How about just on the mechanics. Would you say that the current procedure of giving the school the full tuition when a student completes 50 percent is too easy? Maybe we should parcel it out until the program is completed, to create some economic incentive for the school.

Mr. **Downs**. Okay. From a school owner's standpoint, I personally would have no problem with that, but a lot of schools would.

Senator **Lieberman**. How about the student's side of it? I don't know whether it is typical, but you described a truck driving school where the students actually had to put no money up.

Mr. **Downs**. That's correct.

Senator **Lieberman**. Is that true throughout the the GSL program in proprietary schools?

Mr. **Downs**. I think so.

Senator **Lieberman**. Most students actually don't put anything up. Well, what about it? Don't you think it makes sense to give a student some stake in what is going on by having them put some money down?

Mr. DOWNS. Logically to us, yes, but when you deal with a person whose total life is governed or is geared to someone giving them something where they don't put anything up, no, it won't work.

Senator LIEBERMAN. But that is part of the problem, isn't it? I mean, it sort of guarantees that a program is going to fail if it is viewed as a vacation. It is just something else to do instead of what I am doing, or not doing.

Mr. DOWNS. I won't argue that with you at all. That is one of the fallacies of the business that is not addressed real easy.

Senator LIEBERMAN. OK. Thank you.

Thank you, Mr. Chairman.

Mr. DOWNS. If I may, in one statement that you made, earlier in the testimony there was some discussion about the Veterans Administration and how they do things differently. Monthly payments is the way the veteran's money is allotted out. When we would have a veteran student, we got a basic down payment, a tool cost, and first months tuition, and then from that point on we received the money monthly.

Senator LIEBERMAN. Only so long, obviously, as the student stayed in the school?

Mr. DOWNS. Yes, only as long as the student stayed in the school.

Senator LIEBERMAN. That would be an interesting study, to see whether students under a VA program have a higher propensity to complete the program than ones under GSL.

Mr. DOWNS. They do.

Senator COHEN. Just one question. Did you ever falsify the record so that one of the students when they dropped out from the VA program, that—

Mr. DOWNS. No, sir.

Senator COHEN. Why didn't you on those?

Mr. DOWNS. Because they got a guy that comes by and looks.

Senator NUNN. One of the things we are taking a close look at is how the VA runs their program and how that differs from the way this program is run, and one of the things that is interesting is that there is almost no communication between the people running the 2 programs. There is almost no exchange of information. And so we are going to be getting into that in considerable detail.

Mr. Downs, thank you very much for being here. You have been very helpful to us.

Mr. DOWNS. Senator, thank you.

Senator NUNN. Ms. Byrd, thank you.

Ms. BYRD. Thank you, Senator.

Senator NUNN. Our next witness is James B. Thomas, Jr., Inspector General, U.S. Department of Education. This will be our last witness today. I have talked to the witnesses from the final panel on our witness list today and they can all be here tomorrow morning, and we are going to try to start at 8:30 tomorrow morning, so this will be our last witness today.

Mr. Thomas is the Inspector General for the U.S. Department of Education. Mr. Thomas will testify regarding findings that his office has made in their review of the accreditation process and the Department of Education certification and eligibility process.

Mr. Thomas began his career as an auditor with the Florida State Department of Education. He has also served as the Inspector

General for the U.S. Department of Housing and Urban Development and as the Director of Accounts for the Interstate Commerce Commission.

Mr. Thomas, we appreciate you being here this morning. We swear in all the witness before this Subcommittee. I don't know whether you will have Mr. Brennan and Ms. Schwartz testify. If they are going to testify, we would ask all of you to take the oath. Do you swear the testimony you give before the Subcommittee will be the truth, the whole truth, and nothing but the truth so help you God?

TESTIMONY OF JAMES B. THOMAS, JR., INSPECTOR GENERAL, U.S. DEPARTMENT OF EDUCATION,[3] ACCOMPANIED BY GRETCHEN SCHWARZ, ASSOCIATE INSPECTOR GENERAL, AND CHARLES BRENNAN, REGIONAL INSPECTOR GENERAL, HEADQUARTERS AUDIT REGION

Mr. THOMAS. I do.

Ms. SCHWARZ. I do.

Mr. BRENNAN. I do.

Senator NUNN. Thank you. Mr. Thomas, we appreciate you being here. We also appreciate your cooperation and assistance during the Subcommittee's inquiry. So we are here to hear from you and we look forward to it.

Mr. THOMAS. Thank you, Mr. Chairman. I would like to introduce my two colleagues. On my left is Gretchen Schwarz, the Associate Inspector General of the Department of Education, and on my right is Charles Brennan, the Regional Inspector General of the Headquarters Audit Region.

I have a quite lengthy statement, Mr. Chairman, that I would request you place in the record, and I will give you a very brief summary of that if I may.

Senator NUNN. That will be fine. We will put the entire statement in the record without objection.

Mr. THOMAS. Thank you for this opportunity to discuss the efforts of the Office of Inspector General regarding the student financial aid accreditation, certification, and eligibility processes used to determine which institutions may participate in the Department of Education student aid programs.

Several years ago the Office of Inspector General assessed the student aid programs as being the most vulnerable to fraud, waste and abuse in the Department. In addition, these programs were identified by both the Office of Management and Budget and the General Accounting Office recently in their list of most vulnerable Federal programs.

Concern has increased by the well publicized problems with a large national guarantee agency, the Higher Education Assistance Foundation which you have heard something about here this morning, but certainly did not begin with that. We have seen major proprietary schools, such as Superior Training and Adelphi Institute go bankrupt in the wake of OIG audits and investigations, owing the Education Department and the students millions of dollars.

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[3] See p. 186 for Mr. Thomas' prepared statement.

Lenders—most notably First Independent Trust Company—have gone into liquidation, leaving a wake of financial disaster. Florida Federal Savings Bank was ordered to pay the Department of Education about $17 million after being convicted of fraud in the loan servicing area. Third party servicers have had difficulties as well, including the United Education Software Company which is now in bankruptcy.

The issue areas we have focused on include accreditation, eligibility, and certification processes which determine whether a school can participate in the programs. We have a couple of charts we would like to show here, Mr. Chairman.

Under this process, often called the Triad [See Exhibit No. 6.], again which you have spoken to, as well as the staff this morning, a school must be accredited by an accrediting agency which has been recognized by the Secretary of Education. It must be licensed to provide post-secondary education in the State in which it is located, and must be determined eligible and be certified by the Department to be financially responsible and administratively capable to participate in the programs.

The Department's role in granting a school the right to participate in the student aid programs consist of three processes. The accrediting agency recognition process, the institutional eligibility process, and the certification process. You can see on this chart,[4] Mr. Chairman, that on the upper left the State grants the license to the enterprise. Sometimes it is considered a business, sometimes it is considered an educational organization.

On the upper right, the accrediting agency grants accreditation to the institution, but the accrediting agency must first be recognized by the Secretary of Education. Once those two things happen, then the application is submitted to the Department of Education where an eligibility check is done, and in essence that consists of seeing whether the school is licensed and whether it has been accredited, and then it goes to the certification process where two other activities take place. One is to determine financial responsibility, and one is to determine administrative capability, and then the Department certifies the school and then it is eligible for student aid.

While this may sound comprehensive in theory, we have found that in practice it is all too often a paper chase, and overall the accrediting eligibility and certification system is not effective in protecting Federal funds from misuse, or in protecting students. ED relies heavily on accreditation, but accreditation does not assure educational quality and fair dealings with students. ED relies on State licensure, but State license requirements vary widely, as do State resources devoted to policing schools. The Department certification process is flawed and limited, and it does not protect students, because it is a primarily a minimal review of the school's own representations about its financial and administrative condition. Department officials who make these decisions to allow participation in the programs perceive that they are not authorized to deny schools participation so long as they meet these minimal requirements.

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[4] Charts submitted by Mr. Thomas follow his prepared statement.

We have identified problems relating to accreditation, eligibility, and certification processes in several of our audit reports. These are described fully in my full statement. It is important to note that with respect to the draft reports that we discuss in the statement, the Department is still in the process of making a written response to them. However, we have worked with the Department as we went through these audits and the program managers have been working on corrective actions where that is possible.

The accreditation, eligibility and certification processes are not the only ones in the student aid delivery system with problems. The delivery system includes as participants not only ED and the students and the schools and their accreditors and licensers, it also includes lenders, guarantee agencies, servicers, secondary markets, and auditors, as we see on this chart. [See Exhibit No. 7.] We see, for example, starting at the top center, the school. The school is accredited by the accrediting agency, which has been recognized by the Department of Education. It is licensed by the State licensing agency. It frequently contracts with a servicer that takes care of much of the accounting-book keeping kinds of things that you heard Mr. Downs speak of earlier. And then it is required to have an audit. If it is a proprietary school, it will be an audit by a certified public accountant. If it is a State institution, it is required to have an audit by the State Auditor if the State chooses to go through the single audit concept.

Then the student goes to the school. It is up to the student to get a loan from a lender. The lenders frequently contract with servicers who provide service to them. Once the lender makes the loan to the student, the loan is frequently sold to a secondary market, and the secondary market frequently has a contract with a servicer.

The lender, the loan is guaranteed by the guarantee agency. The guarantee agency frequently has its own service organization and sometimes contracts for servicing, and it has an audit requirement where either it has a CPA audit requirement, or if it is a State agency and it has to have a single audit, then it is done usually by the State Auditor. And then, of course, there is the Department of Education that, once a loan goes into default, the guarantee agency reimburses the lender, the guarantee agency submits that to the Department of Education, which reimburses the guarantee agency. So it is quite a complex kind of situation.

Obviously, if problem schools are allowed into the programs, we will find serious abuses of the programs at the schools, and indeed we have reported many serious problems in our recent semiannual reports to the Congress. We have also found problems with virtually all of the other participant groups in the programs. Despite these findings, however, in no way do I intend to imply that all, or even most, of the proprietary schools or other institutions participating in the student aid programs are abusing them.

We are also concerned that there are legal obstacles to prompt administrative action by the Department to cut off the flow of funds in response to recommendations that we have. For example, ED cannot fully utilize the Government-wide suspension and debarment procedures because the Higher Education Act entitles schools to a hearing on the record before eligibility can be terminated. These hearings can take months to complete and are costly in terms of ED resources. A school owner may be suspended or debarred based upon improper administration of Federal student aid funds, or even based upon an indictment or conviction for program related fraud. Nevertheless, his school, even though he is the sole owner, may remain in the program until such time that it receives a termination hearing on the record.

We hope that ED's emergency action regulations, which will become effective next week, may address this problem to an extent in the most egregious cases, if the regulations withstand the inevitable court challenges that have derailed them in the past.

Another obstacle to expeditious administrative and even judicial action against schools that abuse the program relates to Chapter II bankruptcy that your staff discussed this morning a bit. This is a potent weapon for the schools. By securing the protection of the court, which has an interest in seeing that the schools survive through reorganization, even a school that cannot make loan refund payments to former students may continue to admit new students who in turn incur student loan obligations for a school that may well close or otherwise cut back its educational program. We are exploring ways to deal with this issue on a case-by-case basis, but we believe that legislation making clear that administrative action by ED does not fall within the automatic State provision is necessary to protect the public interest.

Overall, I would say that the results of our work on accreditation, eligibility, and certification show cause for considerable concern. Merely keeping track of, to say nothing of monitoring, the thousands of schools, lenders, secondary markets, and servicers, and the activities of many of the guarantee agencies accrediting bodies, and State licensing agencies is an overwhelming task. Program statutory and regulatory requirements are so complex that they are ripe with opportunities for fraud and abuse. Business economic interests of private sector participants conflict with the interest of students and taxpayers.

Mr. Chairman, I have tried to summarize that statement for you briefly, and I would be happy to respond to questions.

Senator NUNN. Thank you very much, Mr. Thomas, you have been a great help to us.

You have gone into great detail over the years in this area. Is this student loan program as we now know it capable of being reformed? Have we got something here that it is just too complex, too many players, too many laws, too many rules, too many regulations, too many court interventions? Is it just a hopeless case, or is there room and are you optimistic about reform being able to work?

Mr. THOMAS. I am optimistic, Mr. Chairman, but I think it is going to take a lot of activity on all of our parts. I think there is need for some legislative requirements, and I think the higher education amendments that will be coming from the Secretary to the Congress next year will help in that. I think there are opportunities for some regulatory reform, and some of those are in fact in process at the present time, based upon some of the recommendations that we have made. And I think we can do more with what we have. I think we can be stronger in the enforcement of some of the things we already do. And I think you are seeing some of that beginning to happen now.

Senator NUNN. You know, this is not the first time around the track. We had a similar series of problems in the 1970s and there were all sorts of recommendations made, in fact by this Subcommittee, to the committees of jurisdiction and to the Department of Education.

Have you ever gone back and looked at what happened in the 1970s and asked yourself how can we be going around the same track the second time?

Mr. THOMAS. We have done some of that, Mr. Chairman, but it seems to me that for a long period of time there was a great deal of stability in the size of this program. And you saw in the charts here this morning that your staff put up, it was really only in the 1987-1988 time frame when there was a spurt. Other than that, it was a relatively level, slightly growing program.

When 1987-1988 came along, one of the big new programs then was the supplemental loan program, and that was where you saw that big spurt in the defaults there. Even though we have not specifically tied that to SLS, you have had other hearings and reports from the General Accounting Office which indicate that that probably accounts for some of that. So there have been significant, dramatic increases, and my perspective is that where you have this large scale additional flow of funds, then you have people who take advantage of the situation, such as our colleague who spoke before me this morning.

Senator NUNN. The Washington Post reported last week that GAO had been asked to determine if there is a broad pattern of former Federal officials trading their knowledge of student aid programs, either for profits for their schools or bigger salaries for themselves at the expense of students and taxpayers. [See Exhibit No. 8.]

Have you looked into this revolving door charge and found any evidence to substantiate the charges being made here?

Mr. THOMAS. No, we have not looked at that specifically, Mr. Chairman. When we saw the article in the paper, of course, we looked at our indices to see whether any of those were things that we knew about and had done cases on, and other than a case very, very old, which would not relate to the current situation, we have not had any. We are aware, however, that numbers of employees from the Department leave the Department and go to work with guarantee agencies, with proprietary schools, with State organizations, with accrediting agencies, with law firms who represent all of the above, and the like.

And just from institutional memory of our organization we have identified maybe 35 or 36 people who are out there or recently have been out there working in one of these organizations that are involved in this whole atmosphere of student aid.

Senator NUNN. Has your office attempted to develop criteria that collectively describes what could be reasonably viewed as a bad school or a school that is very vulnerable? And if so, how many schools out of the proprietary school group fit such criteria?

Mr. **Thomas**. We have not completed such a task. What we have begun to do this year is identify some criteria by which we can pick out those institutions that are most likely to represent problem institutions. We started a program called "Inspection Process," where we send a team of five people, once we have selected an institution, to go out and take a quick look to see whether or not they are complying with regulations and with requirements. Among the criteria that we have used to do that are the size of the defaults, whether or not an audit report has been submitted currently, whether the school has increased dramatically in the amount of student aid going to that institution, whether the school has switched lenders or switched guarantee agencies, and those are some of the criteria that we are now trying to bring together in such a fashion that we can go through the entire list of thousands of institutions to get a better handle on which ones represent potential problems.

In addition to that, two other offices in the Department have criteria. The one that provides a program review has something they call a taxonomy, and when they go out and do a review, if certain things are present they assign a number of 1 through 5, "1" being a good situation, "5" being something that is so egregious that they send it to the Office of Inspector General to take a look at, and the others are somewhere along the way. And they have some criteria by which they take that assessment.

In addition to that, the certification function has the regulatory requirement to look at certain things in making the judgments that you saw here on financial responsibility and administrative capability, and those are specified by regs.

Senator **Nunn**. In your current draft report on accreditation you refer to a 1979 GAO audit and a 1988 consultant study that disclosed weaknesses in the Department's management of its Title IV responsibilities, and those are very similar to what you cited in your most recent effort. Can you explain why the Education Department has failed to address the same essential problem, that is, that the accrediting agency recognition process does not provide assurance that the Secretary or the public can rely on accrediting agencies as authorities on the quality of education? Can you explain why the Education Department over the last 10 years has not done something about that?

Mr. **Thomas**. I can't to your satisfaction, Senator, nor even to mine. I know that things have happened in the Department. As recently as this week, in fact, the Secretary issued a press release in which he has focused attention on seven accrediting agencies and 89 schools, which account for about a third of all the defaults in the 1988 cohort default rate. Over time, again, when those reports were issued that was part of the Department of Health, Education, and Welfare the possibility exists that some of that got lost in that shuffle of creating a new department from the old one. In the meantime though, we have gone back and tried to see what has happened, and some things have, but it obviously has not fixed the problem.

Senator **Nunn**. You say on page 8 of your testimony, "We concluded that it is time for education to either strengthen the recognition process or significantly reduce its reliance on the accrediting agencies."

So you are saying they have got to go one way or the other here?

Mr. THOMAS. We think that there is an expectation gap, Mr. Chairman. We think this has existed all along. The Department of Education is making certain assumptions that these other two members of the Triad have carried out certain responsibilities, and those other two members have said, hey, that is not our job, that is a Federal job, and so you have this expectation gap.

Senator NUNN. Everybody is pointing at everybody else.

Mr. THOMAS. That's correct.

Senator NUNN. Do you think the Department of Education has allocated sufficient resources to their accreditation, recognition and certification and eligibility processes?

Mr. THOMAS. Well, when we have identified problems and have gone to try to get improvements, one of the things that is constantly presented is inadequate resources in that area.

Senator NUNN. Not enough people?

Mr. THOMAS. That's correct, not enough people and perhaps not the right people.

Senator NUNN. Do you agree with that, or do you think we just don't have the right training with the people?

Mr. THOMAS. I think that there is some of both of that. I think that frequently what we need is more people with a financial analysis kind of background, people who can look at something and make financial judgments. And I think that the sheer volume, again, is such—I mean, I believe your staff alluded to my statement, which had about 4,000 recertifications that have not been done, and in essence there is no way that the staff that is assigned to that could process those 4,000 applications for recertification, particularly if we look in terms of trying to do the kinds of things that we think need to be done to be effective in that job.

Senator NUNN. So your testimony is the Department of Education doesn't have either the number of people or the training with the people who are there to be able to do this job now?

Mr. THOMAS. That are presently assigned to that function. Now, I am not telling you that every office in the Department of Education is appropriately staffed and therefore somebody could not be reallocated to that. I am not making that statement. That is for the Department to decide.

Senator NUNN. Right. But this program cannot be properly administered with the resources and training now available to handle the program?

Mr. THOMAS. That would be my opinion, even though we have not made a staff analysis. But just from being there and looking at the volume and looking at the process, and being present through our audits, I would say that that is a true statement, sir.

Senator NUNN. On page 12 of your prepared remarks, you say that the Department of Education has no plan to enforce an eligibility status update requirement mandated by July 1, 1988, regulations, and further that as of December 1989 more than 4,500 institutions were overdue for redetermination, which you just alluded to.

Can you tell us why the Department has not carried out its responsibilities in this regard?

Mr. **Thomas**. I don't believe I can add to what I have already said, Mr. Chairman, and that is that there is just inadequate people there assigned to that particular function to carry out that responsibility as it should be done.

Senator **Nunn**. Would you have a way of knowing whether the Department has asked for more resources and been turned down by OMB, or whether they have asked for more resources and been turned down by Congressional committees of jurisdiction?

Mr. **Thomas**. No, I am not prepared to answer that.

Senator **Nunn**. On page 20 of your statement, you say that, "ED management advised us that they did not have the authority to take strong actions, such as termination, when schools did not sufficiently correct high withdrawal rates."

Do you agree with the Department's position on that?

Mr. **Thomas**. We agree that it is not clear in the regs and we think that regs ought to provide for that kind of thing.

Senator **Nunn**. But who is responsible for the regs?

Mr. **Thomas**. We in the Department are.

Senator **Nunn**. So the same people who are saying they don't have the authority are the ones that are responsible for initiating the regs themselves, aren't they?

Mr. **Thomas**. I would say so, yes, sir. There may be a consideration which I am not aware of right now. There may be a consideration as to whether or not they have the authority to do so, and I am not prepared to make that distinction at this point.

Senator **Nunn**. Your February 1988 audit report of the Culinary School of Washington includes six findings recommending that the school refund over $400,000 to lenders and the Department of Education. It also states—and this is quoting from your audit report—"Based on the results of our interview, it is our opinion that Culinary School of Washington's management was fully aware of its non-compliances with student financial aid regulations but failed to properly administer the SFA program and to comply with its written assurances."

In addition to audit work, your office conducted two criminal investigations addressing allegations of fraud and abuse at this school. On October 3, 1988, in closing one of these criminal investigations your office concluded that, "Mismanagement was not found at the Culinary School of Washington."

Can you reconcile the inconsistent findings of your audit branch and your investigative branch?

Mr. **Thomas**. I don't believe that they are inconsistent. I think I can clarify what those words mean in that context, Mr. Chairman. In our investigative process we have a requirement on the investigator that rather than being narrow in his or her approach, to look at only the allegation, that they give consideration to whether or not there were management weaknesses that allowed that particular thing to occur. And if they find such a thing, then it is incumbent upon them to prepare what we call an MIR, a management improvement report, that goes to the audit side of our house, and it then will decide whether to look at that management weakness to make a recommendation to the management of the Department.

Now, in this particular case, we had been doing audit work there since 1986, I believe it was, and the auditor, after he had reached a certain point, had begun to be a part of the criminal investigation, and therefore we delayed issue, as is frequently the case, of a final audit report. The auditor just started working as part of the criminal investigative team.

Well, along the way then, because the auditor was aware of the problems there, when the investigator completed the criminal investigation and the United States Attorney advised that criminal intent would be very difficult to establish, the investigator said no MIR is required because no mismanagement was found. What he didn't say was, "that is not already known to the auditor." And that is what should have been there and then this question would not have come up. But the process is one that is working and is effective, but the words chosen on that particular job were not the right words.

Senator NUNN. In other words, he should have said no additional mess has been discovered that you didn't already know about?

Mr. THOMAS. That's correct, yes, sir.

Senator NUNN. In April 1985 your office based its criminal investigation on information that a material percentage of students either never attended the Culinary School of Washington or dropped out prior to graduation. What were the results of that investigation?

Mr. THOMAS. I am sorry, Mr. Chairman, I can't provide that. I will be happy to do it for the record, if I may.

Senator NUNN. Okay. If you do have that, could you get it to us? We are going to be going into this some tomorrow.

Mr. THOMAS. We will get it back to your staff this afternoon, sir.

Senator NUNN. Senator Roth.

Senator ROTH. Going back to the Culinary School of Washington, your audit report in February 1988 states, "Based on the results of our review, we concluded that Culinary School of Washington's management was fully aware of this non-compliance with student financial aid regulations but failed to implement corrective actions. In our opinion, Culinary School of Washington has caused undue hardship for the student borrowers, lending institutions, HEAF, and ED, and has caused the Federal Government thousands of dollars in unnecessary interest and special allowance costs."

What did your office do about these findings?

Mr. THOMAS. Can I provide the answer to that for the record, Mr. Roth? The thing I am unsure about is what actions have been taken. The process is that when we prepare the report and give it to management, then we have a process by which we make sure that management takes an action, they report back to us, and then we ultimately will close our report, but not before we are satisfied that action has been taken. I can't tell you specifically here and now what that action was, and so if I can provide that for the record I will be happy to.

Senator ROTH. I would also like to know what the Department of Education did in response to this.

Senator ROTH. Now, on May 21, 1990, your office issued an inspection report, N-0000903—I am sure that immediately comes to your mind—on the Culinary School of Washington. This report was issued soon after the Culinary School had gone out of business. On the first page of the report it states, "The serious and recurring nature of the determinations discussed in this report demonstrates that the Culinary School of Washington lacks the administrative capability to participate in Title IV programs."

Why wasn't anything done prior to this report to remove the Culinary School from this program?

Mr. **Thomas**. I can't answer that question, Mr. Roth. The Culinary School has an interesting history. The oversight of the different organizations goes back into the early 1980s where the guarantee agencies have looked at it, the Department has looked at it, the Inspector General has looked at it, and each one of them have made recommendations that things ought to happen, and ultimately it resulted precisely in what you say there.

As we started this inspection—one of the thrusts behind this concept of doing an inspection is to try to get away from the time that it now takes to get results implemented from audits and from criminal investigations. As you perhaps well know, when we do a thorough audit, it may be a year and a half before we get a report and get action taken on that. In the meantime, the school continues to get aid. If we are doing a criminal investigation, it may be 1 or 2 or 3 or 6 years before it goes to trial, and in the meantime the school continues to get aid.

So what we tried to do was develop a mechanism by which we could gather sufficient evidence to bring to the program staff and the Department that they could stop aid if we found conditions that were flagrant enough to do that, and this was a process that we started and we have issued now I think six reports, and it seems to be working. It seems to be that we can now stop the aid from going to those schools that are significantly abusing the process. Prior to that time, because of many of these other administrative processes that you have to go through, it just didn't happen, and I can't answer fully the specific question that you asked.

Senator **Roth**. Do you know when the Culinary School declared bankruptcy?

Mr. **Thomas**. It was shortly—it was about the time that we went in, December 1988. We were going in like on a Monday—

Ms. **Schwartz**. 1989.

Mr. **Thomas**. We were going in like on a Monday to start the inspection, and like the preceding Thursday my recollection is they declared bankruptcy.

Senator **Roth**. Well, let me go back to your statement that an audit takes a year and a half. It seems like the situation is such that the barn doors are closed after the horses are stolen. What can we do about this?

Mr. **Thomas**. Well, one of the things that we have tried to do is institute this inspection process so we can get immediate action after we gather together certain facts. I can share just a horror story with you, Mr. Roth, that is happening even as we speak.

We started a criminal investigation concerning a proprietary school in Boston which also has offices in 20 or 30 other cities around the country. That was in 1984. Ultimately that school was indicted, and as we sit here today the trial is going on. Now, that investigation started in 1984 and that school is still getting aid.

The school has been indicted, the owner was indicted, and the like, and yet there is still money—this was one of the three or four largest proprietary schools in this country of ours in 1986 or 1987.

Senator Nunn. Have they been processing and receiving Federal student money since that time and still are?

Mr. Thomas. Yes, sir, absolutely.

Senator Nunn. Do you have any suggestions as to ways we can deal with that by changing the law.

Mr. Thomas. Well, I think part of it is this phrase that I used "requiring a hearing on the record."

Part of it is, I think, these new regulations that are now effective next week on emergency action where you can stop the flow of funds. What has happened before, the Department had regs that allowed it to take emergency action, and they were stricken down in the courts. And as a consequence we were not able to use them until the present time. A law was passed last year, regs were implemented, and now they are effective next week. In fact, the 22nd of September will be the first day that we can use them.

We plan to immediately use them, and there are a number of schools out there right now getting aid that should not be, based upon prior experiences with them. I think that the Department plans to take action next week against some of those schools through this emergency action regulatory process, and we will just see how it works. If it is stricken down again in court, well, we will try something else, Mr. Chairman.

Senator Roth. I want to go back to the question of de-certification. You indicated there that the regulations were not adequate, but you were not clear, at least as far as I understood you, as to whether the Department had adequate authority; is that correct?

Mr. Thomas. Yes, sir, that's correct.

Senator Roth. Is there a potential liability there—

Mr. Thomas. I am not sure I am following you.

Senator Roth. If you improperly decertify is there a problem of a matter going to the courts?

Mr. Thomas. I am not an attorney, Mr. Roth, but I don't think so. My perspective was that some of the things that need to be done, there may not be statutory authority that would allow the Department to do them. But what we are suggesting is, in this process that we had up there, is on making the certification relative to the financial responsibility and administrative capability, that they make that a meaningful process, because what we found, as demonstrated in some of our audit reports, was that frequently the school would come in and on the surface of the documents that were submitted you knew they were not financially strong, and yet they would be certified and they would be put on what is called a watch list, and 2 years later they would be out of business.

So they are almost doomed to fail at the outset, and so among the recommendations that we have made in our audit reports is a strengthening of that process.

Now, the thing I am uncertain about relative to your question is whether the Department has the legal authority at the present time to implement all of those recommendations, or whether some of them will be included in the higher education reauthorization proposals for next year.

Senator ROTH. One final question, Mr. Chairman, going back to the statement that there may be inadequate personnel, do you have any estimate of what in the way of additional personnel needs would be, and what the cost would be of that?

Mr. THOMAS. I do not, Mr. Roth. The reason I don't is because if you try to isolate this one little staff here, which say has eight people doing this function today, and you say, well, they need six more, well over here there is another group of 10 doing something and they may need 12, or they may not need but six, and I don't have that kind of information and I would I think be remiss if I tried to give you an estimate of that.

Senator NUNN. Who in the Department of Education—I know the Secretary is ultimately responsible—but who would make these decisions about giving them enough personnel? Where do we look to that responsibility?

Mr. THOMAS. I believe that it is a triad, even though I hate using that word, Mr. Chairman. It is the program assistant secretary who makes the proposal; it is the chief budget and policy officer who analyzes that proposal and makes a recommendation; and then it is the Secretary who makes a decision. Now, ultimately the 3 of them come together and collaborate and make that final decision, but it is the Secretary's decision. And that is true with each senior officer, myself included.

Senator ROTH. Mr. Chairman, I would ask that at the beginning of these hearings that we include a statement by the Honorable Marge Roukema of New Jersey, including an op-ed prepared by her, as part of the record. [See Exhibit No. 113.]

Senator NUNN. Without objection it will be included.

Senator ROTH. I thank the Chairman.

Senator NUNN. Thank you, Senator Roth.

Mr. Thomas, one final question. How long have you been in your current position?

Mr. THOMAS. A little over 10 years now, Mr. Chairman.

Senator NUNN. Over the years you have looked at this program I am sure over and over again and gotten into investigation after investigation, and during the course of those investigations I am sure that you have come out with a lot of different recommendations.

Could you give us, for the record, the recommendations you have made about how this program, this overall student aid program, should be changed, those recommendations, and give us the changes that have been made based on those recommendations, and where there have been no changes made indicate that? Could we have a litany of your recommendations?

Mr. THOMAS. We will make every effort to do that, Mr. Chairman.

Senator NUNN. And particularly your most recent ones.

Mr. THOMAS. Recognizing, of course, that the testimony here has some draft reports where the Department has not even decided whether it agrees with us or not.

Senator NUNN. Well, I am not really asking whether the Department agrees or doesn't agree, I am asking for your—as IG—your recommendations, and then whether things have been done pursuant to those recommendations, including changes in the law. That would be very helpful to us.

Mr. **Thomas**. Okay.

Senator **Nunn**. We appreciate your cooperation and help and we look forward to continuing to work with you.

We had planned to have today a panel that we will have the first thing tomorrow morning. We will have Mr. Thurston Manning, President, Council of Post-Secondary Accreditation; Jan V. Friedheim, former member, National Advisory Committee on Accreditation and Institutional Eligibility; Debbie De Vries, former Vice President, Accrediting Council for Continuing Education and Training; and Elizabeth Imholz, Esquire, Director, Consumer Unit, South Brooklyn Legal Services tomorrow morning at 8:30.

And then we will have a number of other witnesses tomorrow morning, including witnesses concerning the Culinary School of Washington.

[Whereupon, at 12:20 p.m., the Subcommittee adjourned subject to the call of the Chair.]

ABUSES IN THE FEDERAL STUDENT AID PROGRAMS

THURSDAY, SEPTEMBER 13, 1990

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 8:32 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Sam Nunn (Chairman of the Subcommittee) presiding.

Present: Senators Nunn, Roth, Levin, and Lieberman.

Staff present: Eleanore J. Hill, Chief Counsel; John F. Sopko, Deputy Chief Counsel; Mary D. Robertson, Chief Clerk; Kim Wherry, Counsel; David Buckley, Chief Investigator; Harold B. Lippman, Investigator; R. Mark Webster, Investigator; Cynthia Comstock, Staff Assistant; Declan Cashman, Staff Assistant; Francine Schwartz, Staff Assistant; Daniel F. Rinzel, Chief Counsel to Minority; Carla Martin, Assistant Chief Clerk to Minority; Blaine Phillips, Staff Assistant to Minority; Aaron Bayer (Senator Lieberman); Jack Mitchell (Senator Levin).

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. The Subcommittee will come to order.

Today the Permanent Subcommittee on Investigations begins our second day of hearings on how allegedly "bad" proprietary schools qualify for and continue to operate, often for long periods of time, in the Title IV program. The Federal student assistance program relies upon a triad of state licensing authorities, accrediting agencies, and the U.S. Department of Education to protect the taxpayer and the student.

Yesterday's testimony before this Subcommittee suggested that at best the program does a very poor job of assuring quality education to the thousands of students who participate in it. At worst, the hearing record shows that this program routinely accepts what can be described as a rogues' gallery of con artists and sharp operators who prey upon the gullibility of students and ineptitude of regulatory authorities.

In that context, the Subcommittee today will review the case study of a proprietary school which operated for approximately 10 years until declaring bankruptcy this past January. We will receive testimony from the Subcommittee staff concerning their examination of the Culinary School of Washington. This study will not only document abuses that occurred at the school, but more importantly, the action and inaction of the various state and private agencies responsible for regulating this proprietary school and its access to Title IV funding.

We had planned to hear testimony from the owners of the school, Mr. Barkev and Mary Ann Kibarian. Since subpoenaing the Kibarians, both have asked for continuances of their appearances. Mr. Kibarian alleges that within 24 hours of the time he was served his Subcommittee subpoena at his Potomac, Maryland, home he experienced a recurrence of stroke-like symptoms. His physician, Gilbert Eisner, a medical doctor, has asked that for the immediate future Mr. Kibarian not be placed in any stressful situation. We were told by Mr. Kibarian's physician that Mr. Kibarian may have suffered a small stroke in May, but he found little evidence of additional stroke-related problems until last Friday when told by Mr. Kibarian's attorney that his client's speech was, "probably," slurred. The physician felt it would be best for Mr. Kibarian to rest for several weeks to make sure there were no further symptoms.

Although I must say I am a bit skeptical of the recent deterioration in his medical condition, at this time, with the abundance of caution and in consideration of his health and depending on the doctor very heavily, which at this stage we have to do, we are granting a continuance of his appearance today. We intend to reschedule his appearance until later this session, hopefully in the next few weeks.

We have two letters from the Kibarians' attorney requesting that their appearance be rescheduled, and I will ask that they be entered into the record without objection. [See Exhibit Nos. 86 and 87.]

In addition, we have also rescheduled until later in this session the appearance of Mrs. Kibarian, the former president of the school. We granted her a continuance due to previously scheduled surgery for her elderly mother, but also considering that her husband, who was certainly one of the prime movers in this, would not be here.

We do expect to hear from Dr. Robert E. Taylor of the National Association of Trade and Technical Schools and Roger J. Williams of the Accrediting Council for Continuing Education and Training. These two accrediting bodies accredited the Culinary School of Washington as meeting their associations' standards for providing quality education to Culinary School students.

We will close today's hearing with a panel of State regulators, including representatives from the Education Departments of Florida and Illinois, as well as the President of the Texas Guaranteed Student Loan Corporation. These witnesses will present another view of the problems with the Title IV program, problems that they must confront daily in attempting to regulate this complex and important sector of our national educational community.

Our first panel this morning is the panel that had been scheduled to testify yesterday. They were considerate of the Subcommittee. We were running very late yesterday and Senators were being called to other meetings, and we appreciate their being willing to remain and come this morning.

We have today a panel consisting of Mr. Ted Manning, President of the Council on Post-Secondary Accreditation, a trade organization for accrediting agencies. Mr. Manning, we are glad to have you. Jan V. Friedheim, currently a Dallas, Texas, proprietary school owner, member of the AICS Board of Directors and former member of the Department of Education's National Advisory Committee on Accreditation and Institutional Eligibility. We are glad to have you. Deborah D. De Vries, a former Vice President of the Accrediting Council for Continuing Education and Training. We are pleased to have you. And Elizabeth Imholz, a senior attorney with South Brooklyn Legal Services and an attorney for many aggrieved proprietary school students.

These witnesses will give us their impressions of the strengths and the weaknesses of the triad system used to evaluate a school's qualifications to participate in the Federal student financial aid program. We welcome all of you here this morning. As you observed yesterday if you were here, we swear in all the witnesses before the Subcommittee. We have done that for years, so we will appreciate each of you standing and I will give you the oath.

Do you swear the testimony you give before the Subcommittee will be the truth, the whole truth and nothing but the truth so help you God?

Mr. **MANNING**. I do.

Ms. **FRIEDHEIM**. I do.

Ms. **DE VRIES**. I do.

Ms. **IMHOLZ**. I do.

Senator **NUNN**. I believe we have here Mr. Manning starting with you, but we don't have any particular order, if you prefer otherwise, but I have Mr. Manning, Ms. Friedheim, Ms. De Vries, and then Ms. Imholz.

Mr. **MANNING**. Ms. Imholz would like to go first, if that is agreeable, Senator.

Senator **NUNN**. That is certainly agreeable with me if it is agreeable with the panel.

TESTIMONY OF ELIZABETH IMHOLZ, ESQ., DIRECTOR, CONSUMER UNIT, SOUTH BROOKLYN LEGAL SERVICES [1]

Ms. **IMHOLZ**. Thank you very much.

Good morning, Mr. Chairman, members of the Committee. I have submitted a prepared statement and ask that it be entered into record and I will just summarize my remarks.

Senator **NUNN**. Without objection.

Ms. **IMHOLZ**. I am the consumer law specialist for Legal Services of New York City, whose neighborhood offices provide free legal representation to low-income persons. Over the past 4 years our offices have been deluged with hundreds and hundreds of complaints about proprietary trade schools, students defrauded by promises of free training and high paying jobs, tricked into signing for loans they didn't necessarily need or want or understand, disgusted by broken equipment and teachers who didn't teach, or sometimes didn't even show up for classes, and ultimately sued or harassed because of defaulted loans that they could not repay.

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[1] See p. 234 for Ms. Imholz' prepared statement.

On the front lines my colleagues and I across the country are seeing a human disaster of immense proportions for our clients' lives related to proprietary trade schools. Each day I continue to receive phone calls from students, from counselors, from other advocates, other lawyers, asking about how to deal with proprietary trade school problems and related financial aid matters.

It is no exaggeration to say that nearly every client who walks into our office has either had a problem herself or has a friend or relative who has had a problem with a proprietary trade school. We have therefore made them a top priority of our consumer cases in New York City. I currently have complaints against roughly 20 trade schools in New York, and have brought several class actions against these schools, only to have these schools enter bankruptcy.

Senator NUNN. Are you getting complaints on other schools other than proprietary also?

Ms. IMHOLZ. No. I am not sure why that is. I mean, perhaps it is the nature of the schools that my clients tend to go to, but I don't currently have those types of complaints.

So far the frustrating results of our litigation and other efforts have been prolonged litigation against corporate shells with little or no assets, students who have received no training or jobs and yet are saddled with these defaulted loans, which will bar them from any further educational opportunities, grants or loans being barred if you have a defaulted loan.

We have come to recognize the limited benefits of litigating within such a fundamentally flawed system where the accrediting bodies and the U.S. Education Department sometimes seem aligned with the schools against the student consumers' interests, and where school bankruptcy filings interfere with financial recovery. Daily we hear from our clients these far-reaching consequences in their lives, including damaged credit ratings, loss of confidence in themselves, and I think very importantly, a loss of faith in the governmental system that allowed funds to flow so freely to fraudulent operations. An even greater damage perhaps is their disenfranchisement from the educational system and perhaps from the work force as well. Many of them are already public assistance recipients and don't see any hope of getting off that once they are stuck with a defaulted loan.

Senator NUNN. In other words, this takes a bad situation and makes it almost incurable in terms of them feeling that they have a chance in life.

Ms. IMHOLZ. That's right. It is tremendously frustrating to feel like they took the step, they took the chance, they committed themselves to bettering their lives and now are in a worse position than they were before.

Because it has been impossible after the fact to rectify the damage perpetrated by trade school misconduct, we have come to believe that legislative and administrative change is needed at the front end of the process. Tinkering with the current system for trade school regulation, we believe, is not enough, and I offer the following recommendations for some changes.

First, proprietary schools, it seems to me, should be regulated differently from other institutions of higher education. The present scheme has developed standards and controls oriented toward regulating traditional nonprofit institutions of higher education. This system has failed to maintain minimal levels of quality in proprietary trade schools and in fact may have fostered widespread fraudulent practices. For example, Leonard Hausman, a former owner of a computer school in New York, convicted of theft of Federal funds, testified at a related criminal trial that in 1981 when he opened his school, prior to Federal funding, he was drawing a salary of $10,000 to $12,000. One year after receiving accreditation, I believe by NATTS but I am not sure, and once the Federal funds starting flowing, his salary jumped to $700,000 per year. Through litigation and bankruptcy filings we are learning of countless examples like this of school owner fortunes and real estate empires derived from guaranteed student loan funds and built on the backs of poor students who wanted nothing more than to better their lives by getting quality training and a job. Clearly, as we heard from Mr. Downs yesterday, the system seems to provide some real incentives for this sort of profiteering.

One solution, it seems to me, is to acknowledge the difference between proprietary trade school businesses and other institutions of higher education and to separate their funding and regulation. Job training and placement, the stated goals of proprietary schools, naturally lend themselves to different, more objective measures and standards than, for example, a liberal arts education. Proprietary schools could thus be removed from Title IV programs in the jurisdiction of the U.S. Education Department and funded, if they are to be at all, under a separate type of program conditioned on performance standards.

Repeatedly we heard yesterday from the Inspector General at U.S. ED that employees in the Department just may not have the proper expertise, the business background, the prosecutorial training needed to adequately oversee the scope of the proprietary trade school problem. The Department's traditional role is in matters relating to education, not job training and not businesses and not criminal activity. So placing regulation of trade schools under a more appropriate agency, such as perhaps the Department of Labor, I don't know, would perhaps make more sense.

Senator **Nunn**. Or perhaps—go ahead, excuse me. I had a thought which I have repressed. Go ahead.

Ms. **Imholz**. I want to be clear that my clients clearly express and have a strong desire for basic literacy training, English as a second language, equivalency diploma training, and job training, and public funding is sorely needed to provide free and low-cost programs of that nature and of a high quality. But based on my clients' experiences, those needs are just not being met, and to the contrary, they are being put in a worse position under the current system.

A second recommendation is that the current accreditation and Department of Education scheme of regulation, if it is to be continued, must be dramatically modified. Congress should enact specific, exacting standards to make the process meaningful. The Department of Education relies almost exclusively on private accrediting agencies. Its self-evaluation and peer review system is clearly not taking care of the problem. In my view, there are two basic flaws in this process. First, the Federal statute lacks specific direction as to the standards the Secretary should use in recognizing accrediting bodies. Therefore, unreliable agencies may be given a powerful role in assessing the quality of trade schools, which opens the flood gates to Federal funding. Unreliable accreditors create the false impression for my clients that accredited schools have been endorsed by truly objective evaluating bodies acting for the Federal Government and therefore the student needn't make any further sort of consumer inquiry about the record of the school.

A second flaw in the accrediting process is that the inadequate statutory and regulatory requirements for accreditors have allowed them to evade responsible decision-making about what schools to accredit or to terminate from accreditation. Accreditation seems to be routinely granted without giving weight to records of complaints about or findings against schools by State regulators, without regard to the owner's prior convictions, for example, and sometimes without site visits. For example, the owner of Adelphi Institute, the computer school with the vanishing library, which Kim Wherry described yesterday, the owner had been convicted of defrauding the Federal Government of manpower training funds in February of 1980. About 6 months later, while Adelphi's owner was still on probation for this Federal crime, the school was granted accreditation.

Similarly, another school which we have sued, Market Training Institute in New York, was also accredited although its owner had previously closed another school without notice and owing the State of New York some $400,000 in improperly received student grant monies.

Defining some precise standards and responsibilities for accreditors can, I think, no longer be left to the Department of Education. Leaving the responsibilities between those two parties, U.S. ED and accreditors, ill-defined has allowed and in fact enabled this seemingly endless cycle of finger pointing while never actually assuring the integrity of the quality of schools.

We have seen, unfortunately, that the Department seems to capitulate to pressure from accreditors. For example, in 1987 the Department proposed some regulations which we thought might be helpful in tightening up the process a bit, requiring simple things like prompt reporting by accreditors to the Secretary of termination and probation actions taken against schools, presumably to facilitate the sharing of this information so the Secretary could take prompt action and know who to target, et cetera. The final regulations, citing comments from accreditors, dropped the proposal, stating that the Department didn't want to impose on accreditors the burden of reporting.

Another example of the Department's failure, in our view, to protect student interests, is its recent cosponsorship with an accreditor of a booklet on choosing a vocational school. In 1988, the Department had issued a lengthy report finding widespread problems in the proprietary school industry. Yet a year later the Department joined NATTS in sponsoring this booklet, "Getting Skilled, Getting Ahead," which promotes proprietary trade schools, does not mention any other types of vocational programs, and does not mention any of the problems of consumer fraud that the student might encounter in looking at a proprietary trade school. It contains no admonitions about U.S. ED's own findings of inappropriate admissions, excessive financial aid obligations, or deceptive practices at some proprietary schools. In fact, the booklet unequivocally states that accreditation means that a school truthfully advertises, admits only qualified students, maintains equipment, charges reasonable fees, et cetera. The Department of Education knows better. In New York every school we have sued, every school we have complaints about, every school in which the owners have been indicted and convicted, is accredited. Yet, here the Department explicitly assures students that accreditation guarantees them quality.

When students complain if their school defrauds them or goes into bankruptcy, leaving them with a student loan debt they cannot repay because they haven't gotten the services, the Department says, "You should have been a better shopper."

We believe, therefore, it is incumbent upon Congress to legislatively define, if the scheme is to be kept as it is, accrediting agency responsibilities to make clear who is accountable to whom.

One final recommendation, although I could probably go on a long time, because the problem of school bankruptcies leaves students with no recourse, we suggest that lenders and all holders of student loan papers be held liable for student borrowers' claims and defenses against their schools. This is especially appropriate where, as is most often the case, the school has actually arranged for the loan for the student. We are currently litigating this theory, as are others in other parts of the country, and there is precedent for it in the Federal Trade Commission's "holder in due course" rule, which I would be glad to talk more with you about if you are interested.

Clear statutory direction on this point, requiring that such a provision preserving the student's claims and defenses in the promissory note, would provide some real measure of protection for students and incentives for the financial parties to deal only with scrupulous schools.

In closing, I just wanted to add that this Committee's attention to the issue is very heartening. I have spent the past several years talking to people in Washington about this issue and trying to urge reform and have generally gotten a very cool reception. It is no secret that the proprietary school industry and the accreditors have a strong presence in Washington that students do not have. I hope the time has come to redress that imbalance and that the true intended beneficiaries of these student aid programs, the students, will now be the focus of reform.

Thank you very much.

Senator NUNN. Thank you very much, Ms. Imholz. That will be very helpful. Your suggestions will be very helpful.

Let me throw one other possibility out that has been mentioned in these hearings and get your view, and then we can get the view of the other witnesses after they have testified, if they would like to. That is, instead of paying all the money up front, put this on more of a quarterly or monthly basis so that progress payments are made only as the student stays in school. I mean, that is what the Veterans' Administration does. I don't know of any other program where you get the whole amount up front from the Government, the whole deal. We don't do that in any government contracts that I know anything about.

What would be wrong with doing that?

Ms. IMHOLZ. I think that is a very good suggestion. It is something that we have pushed on the State level in New York and I think it makes a lot of sense. It provides the kind of financial incentive that might do a lot of good.

I think there is already some sort of partial disbursement system set up in terms of the guaranteed student loans being divided, but more of that, more of a pro rata or a reimbursement system rather than an up-front payment would make a lot of sense and provide the right incentives.

Senator NUNN. Also, is there a logic behind the policy whereby when a student completes 50 percent of the class that the student gets the whole amount of money?

Ms. IMHOLZ. Well, I don't think so. I think, and have been suggesting, pro rata liability should be the standard. I know the schools say they put money in up front and therefore need to hire teachers, to pay costs, to get that full amount after 50 percent. To me it does not make sense. Students hang in there for a long time because, in my experience, they really want to make it, and sometimes don't realize until quite far down the road that the program really isn't going to improve and isn't going to provide what they had hoped for. So I think making it pro rata makes the most sense.

Senator NUNN. Thank you. Mr. Manning, we will go to you next.

TESTIMONY OF THURSTON E. MANNING, PRESIDENT, COUNCIL ON POSTSECONDARY ACCREDITATION [2]

Mr. MANNING. Thank you, Senator. I am Thurston Manning. I am the President of the Council on Post-Secondary Accreditation. It is not, as you characterized it earlier, Senator, a trade association of accrediting bodies. It is a rather curious association of accrediting bodies, since we do not accept all accrediting bodies as members. COPA members must have passed a recognition process, demonstrating that they meet the provisions for recognition established by COPA through a rather rigorous process that might be characterized as accrediting accrediting bodies. And, as a consequence, not all accrediting bodies recognized by the Secretary are members of COPA. Of my two co-panelists to my left, one representing AICS is a COPA member, another representing ACCET, is not a COPA member.

Senator NUNN. Have they tried to be a COPA member and gotten turned down?

Mr. MANNING. No, they have not sought COPA membership.

Nevertheless, COPA does exist as a mechanism for improving accreditation and as a way in which accrediting bodies can speak with one voice on particular issues. We also, however, encourage COPA member accrediting bodies to express their own views since there is frequently a variety of opinions on particular matters.

The issues that are before this Subcommittee are important ones and ones that the accrediting community considers very seriously.

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[2] See p. 254 for Mr. Manning's prepared statement.

Accreditation exists to assist institutions to improve and to provide a public certification that the institution has been examined and found at one point in time to meet the accrediting standards. There is also the hope by accrediting bodies that those standards are met continuously, and there is a monitoring process carried out by reliable accrediting organizations to try to ensure that. Nevertheless, we know that these processes are not perfect and we seek to improve them and modify them regularly.

There has already been displayed before the Subcommittee the idea of a 3-part control over institutions of post-secondary education, proprietary and other, beginning with control at the State level for non-public institutions. The State level authorization of institutions has existed from the very beginning. Problems with the State level authorization have also been apparent for at least 40 years. Because they have been apparent for so long, both in terms of the adequacy of the statutes to authorize institutions and in terms of the resources placed by the states at the disposal of those administering the statutes, I think it is unlikely that there will be any substantial improvement in State authorization activities in the near future, although I certainly hope there will be.

The State higher education officers associations are pressing on this matter. The fact is we have more than 52 different jurisdictions with multiple licensing and authorizing agencies within each of the jurisdictions. It is a very complex process and it is one that has worked better in some states than in others, but not as well as it should in any State. As Ms. Imholz' testimony indicates, it does not work well in the State of New York, which probably has among the most stringent of the authorizing statutes and has made the greatest amount of resources available to administer them.

The second element of the so-called triad is the accrediting organizations. These are not public organizations. They are private, non-governmental organizations, generally of the institutions that they themselves accredit. The use by the Federal Government of the publicly declared accredited status of institutions has been in place for some 38 years. It was adopted by the Congress in 1952 as a consequence of the unfortunate experience with the GI bill following World War II. That was an indication to the Federal Government and the Congress that indeed there were problems in the State authorization process, and they turned to this private accreditation activity for assistance in identifying for Federal purposes institutions of adequate quality. For some 38 years it has served in that process. It has not served perfectly. It has changed. It has improved. It has had its successes as well as its failures. But nevertheless, it has been an essential part of the Federal process as a very curious dependence or utilization by the Federal Government of a private activity.

The third component, of course, is the Department of Education itself. You have heard a great deal about that.

Let me say that there are some basic issues that need to be considered. The first is that the issue of default, high rates of default, is not necessarily equated to what have been referred to as "bad" schools. Bad schools, unless they are defined as ones having high rates of default, will be not necessarily characterized through the default rate. The fact is that as we find out more about defaulted student loans, we discover that they tend to concentrate among those student populations that come from economically disadvantaged backgrounds and who enroll in courses leading to immediate job entry. If you don't like the jargon, we can say these are poor folks who are seeking training to get a job.

When we look in the public community college sector, we find higher default rates in public community colleges that serve inner city communities than we do in public community colleges that serve affluent suburbs; we discover that the default rate is higher when they are serving poor folks who are seeking training to get jobs. Those are not necessarily bad institutions. It says something about the kinds of persons that they are seeking to serve.

Furthermore, I think Mr. Downs' testimony yesterday points out the fact that even with high default rates and overt fraud you may have satisfactory educational programs. There is nothing in Mr. Downs' scheme for defrauding the Federal Government that had any bearing at all upon the educational program of his schools. He invented fictitious students, asserted that they were students, and then proceeded to pocket the loan monies that were received in their names.

Senator NUNN. I think he distinguished between the first school he worked for and the ones he owned and took some pride in the quality of education of those he owned while he was creating the fictitious students. But he did say that the school he worked for where he learned his business was a very bad school, not simply in default rate but in the quality of education, and he said, I believe, that if someone breathed and had a driver's license, they were deemed eligible, and he went into considerable detail. So it depends on which school he was talking about.

Mr. MANNING. That is quite true, but in every case where there is a high default rate there is not necessarily a poor educational program. My point is simply that equating high default rates with bad schools or poor schools will lead us astray, because high default rate schools will be high default rate schools for a variety of reasons, and unless we have a proper diagnosis of the disease we are likely to get the wrong cure proposed for it.

Nevertheless, Senator, it is the case that the accrediting agencies, like the Department of Education, have concern and seek to provide improvement. In recent years there have been changes in accrediting standards bearing on recruiting and on the branching of institutions. I have proposed in the extended statement, which I trust will be entered into the record, that there needs to be an improvement with respect to the reporting requirements of accrediting bodies.

It is also the case, however, that I believe the Federal Government has leaned too much on the private accrediting system. The private accrediting system exists for certain purposes. Among its purposes, however, are not supervision or of Federal student loan programs or Federal programs at all. There is a need for the Federal Government itself, through its Department of Education or otherwise, to take additional and fuller responsibility for the administration and supervision of these programs. It is not realistic to expect the private accrediting organizations to administer Federal regulations and to monitor Federal student financial aid programs.

Finally—and I could go on, like Ms. Imholz, at some length—let me point out that there are difficult issues of public policy here. One of the underlying matters that has been of concern to the Congress is the question of access to post-secondary education. Increase of access has been a goal of many of the legislative initiatives in the Congress. When the Congress undertook to provide through federally guaranteed student loans a means of increasing access to post-secondary education, they placed upon the system that was in place a strain that we are now experiencing and seeing in the high default rates and in the rise in the level of abuse.

The fact is that increasing access will cost us something. Many of the things that we seek to do to improve and to deal with the problems are activities that will in fact decrease the access of students to post-secondary education. This is a difficult issue of public policy. It is one that must be discussed and dealt with in detail, because we need to maintain high access, but we need to improve the system. We need to improve the system in ways that will not destroy the access for students to post-secondary education.

Senator NUNN. Thank you very much, Mr. Manning. I agree with that. I think you have framed it well. I would say though that the present system, if left to run its course, is decreasing the access because of the disillusionment of thousands and thousands of students. So left as it is, I think we are dramatically decreasing the access by letting fraudulent people and so forth basically run the program. I would agree with you that a high default rate does not necessarily mean it is a bad school. It can be a high default rate school and also a bad school——

Mr. MANNING. Correct.

Senator NUNN [continuing]. Or it could be based on the economic circumstances. But in any event, the taxpayers have a right to be concerned about a high default rate school even if it is providing quality education. You have to make a judgment about the circumstances, but I don't think we can simply say don't worry about a 50 percent default rate because they are getting a good education. I think we have to watch the taxpayers' money also.

Let me ask one question as we go along here—and Senator Lieberman, if you would like to ask anything as we go along too—your organization is an organization of accrediting groups?

Mr. MANNING. Accrediting organizations and national organizations that have institutions as their members, such as the American Council on Education, AAU, AAC, and so on.

Senator NUNN. How does an organization get to be part of your group? Do they pay you a fee each year, a membership fee?

Mr. MANNING. Yes. The accrediting organizations that are members of COPA, along with the other organizations, do pay annual dues, which is based on the number of organizations they accredit, in the case of accrediting organizations.

Senator NUNN. And what is the basic service you provide to them as members?

Mr. MANNING. We provide them the recognition service. We provide programs of professional development for persons in the accrediting organizations, including their volunteers. We provide publications. We provide a national voice in various meetings to encourage the improvement of accreditation.

Senator **Nunn**. Does it give their accreditation prestige to be a part of your group? Does that help them, give them more credibility?

Mr. **Manning**. We hope so.

Senator **Nunn**. Do you de-recognize people who are part of your organization? Have you ever kicked anybody out?

Mr. **Manning**. That has happened.

Senator **Nunn**. How frequently has that happened?

Mr. **Manning**. COPA has been an organization in existence for 15 years. It was the merger of two preexisting organizations. In that period of time there have been five organizations that have dropped from the COPA recognition list for a variety of reasons.

Senator **Nunn**. Was that at your initiative or their initiative?

Mr. **Manning**. There have been cases of both.

Senator **Nunn**. You have kicked people out then?

Mr. **Manning**. Let me phrase it this way. At one point the recognition provisions were altered and an accrediting organization which had been recognized concluded it did not wish to change to meet the new provisions. It therefore dropped out. Whether you characterize that as our kicking it out or its dropping out, at any rate it is no longer with us.

Senator **Nunn**. You have toughened your standards. Five out of how many?

Mr. **Manning**. There are currently 60.

Senator **Nunn**. But five would be over 15 years. What would be your ratio over 15 years? How many organizations have you had over 15 years? Do you know that?

Mr. **Manning**. The number has been fairly static; 60 is not a bad number for a 15-year period.

Senator **Nunn**. Ms. De Vries, we will hear from you next.

TESTIMONY OF DEBORAH DAVISSON DE VRIES, FORMER VICE PRESIDENT, ACCREDITING COUNCIL FOR CONTINUING EDUCATION AND TRAINING [ACCET] [3]

Ms. **De Vries**. Thank you and good morning. I am pleased to be here. My name is Deborah Davisson De Vries and I have about 16 years of experience in adult education, beginning in capacities that I think helped me understand some of the issues today.

I have worked in a high school completion program for the Marines, in a pilot teacher training program. with the Air Force, in a GED training program with American Indians. I have also taught for several different colleges as an associate faculty member. In 1984 I joined ACCET, which was at that time called the Council for Non-Collegiate Continuing Education, and the initials were CNCE. ACCET stands for the Accrediting Council for Continuing Education and Training, it is just easier to say ACCET, so I will use that for the rest of my testimony.

I have quite a lengthy statement and what I would like to do is summarize just some of the key points. I support what I have heard Ms. Imholz and Mr. Manning, say earlier today, and I would like to make the comment that what I see as the issue really is learning to increase access and at the same time increase consumer protection. I think if we frame our need as two positives, that that will help us have the right focus.

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[3] See p. 267 for Ms. De Vries' prepared statement.

In my experience at ACCET I had various job titles and duties, which included coordinating applicant readiness, scheduling on-site visits, training commission representatives and team members, conducting on-site visiting, developing and conducting applicant training workshops, and coordinating commission meetings, so I saw many different aspects of the programs and the accreditation process.

I visited over 250 different schools in the time that I was at ACCET, and I observed quite a variety of examples of individuals. I observed programs and individuals who provided exemplary care and commitment, and those who were perhaps more callous in their pursuit of personal recognition, money or power. I learned that there is no magical answer or clue to be able to distinguish healthy growth and change from a Jekyll and Hyde growth and change.

Some schools were able to evolve stably after accreditation, and others, unpredictably, would fall victim to the new power and wealth they acquired and lose the ability to manage or educate effectively. So, in answer to some of the questions that occurred earlier, I strongly believe that there are changes after the schools are accredited that are not perceptible in the beginning phase. I also think that we can learn from experience and put together many of the sins or many of the bad school tendencies or characteristics, but I believe that there really is a dramatic change in the school structure after accreditation, after schools grow.

I observed a major change in the underlying premise of owners and schools in my 10-year service. And what happened, in my observation, I believe represents a microcosm of what has occurred in other agencies. When I began working with ACCET, my organization was composed of 144 continuing education programs. I believe that only 3, or 2 percent of them at that time, had access to Title IV funding. The others used accreditation as a public approval, consumer assurance avenue, and utilized the structured aspect of self-evaluation and the specific aspects of it in its model as a tool for self-improvement.

By the time that I left ACCET in 1988, it had accredited close to 400 different continuing education programs, and the number of programs accessing Title IV was close to 50 percent of that number.

I believe that many of other variables changed, in addition to the obvious in terms of numbers. When I first began at ACCET, concepts such as change of ownership, addition of a branch, addition of a new course, were actually very rare. By the time I left, there were about 100 requests for changes every month, so the volume of activity changed dramatically, and I think that is an indicator of some of the other areas of difficulty we have alluded to in the last 2 days. I believe that during this time there was a dramatic change in the goals and philosophy of school owners, but not necessarily of the oversight people. In my definition of oversight I am including Federal, State and accrediting bodies. I will focus particularly on accrediting procedures.

In 1984 there was a rather small, consistent philosophy among school owners, seeing themselves as teachers and educators predominantly, that they were there to nurture other people. The oversight agencies saw themselves as collegial, nurturing, and educating and really not seeing themselves as policemen. I think that what the Inspector General referred to yesterday as the concept of having an expectation gap is a very clear description of what has occurred. I think the single most difficult area here is that the accrediting agencies do not or have not seen themselves as policemen and that the Department of Education had the concept, well, somebody is policing so certainly it must be you, because it isn't us.

Senator NUNN. Everybody is looking to everybody else and nobody is doing it, right?

Ms. DE VRIES. Right. And so I think that that issue of accrediting agencies not seeing themselves as policemen is a very important one to review. The rules of the game changed without a recognition by, particularly, the accrediting agencies. Major changes in the school oversight relationship occurred when schools were owned by managers and businessmen rather than social servants and educators. What made sense to a businessman was slow to be recognized by an accrediting agency who needed to actually become proactive in anticipating what other changes that might lead to in terms of what needed to happen in governing and looking at legislation and regulation, and even in fee structure and staffing.

As an example, when I first started, our agency had no specific standard that said unethical behavior was a reason that accreditation could or would be pulled. Now, obviously, unethical behavior is usually associated with one of the specific standards. But if for some instance it would not be, there was no specific standard that would allow the accrediting agency to withdraw accreditation. Withdrawal has to be based on a specific lack of compliance with a standard. At my suggestion, a statement which said "an honest and ethical intent is implied by all communications" was added as one of the standards. Although that sounds like a very simple concept, I am trying to use this example to make a point to show how the maturity level or the evolutionary level of an accrediting agency didn't match the need to recognize the need for specific legal protection. It was an assumption but not a reality, in the early phase of accreditation maturation. This is my analysis, in simplistic terms, of how bad schools get into an accredited system and how they stay there, I think there are four key explanations. The first one is what I have just alluded to. Accrediting agencies and the other oversight agencies have not matured as rapidly as the bad schools. For example, if a school deliberately wants to lie or cheat or steal, it will go to great lengths to ensure that it succeeds. The charades go beyond what I think is anticipated or expected by a reasonably knowledgeable visiting team.

Several instances that I recall illustrate this point. In one instance, actors were actually hired to pose as students. Another, computer programs and hundreds of pages of supporting documentation were created to establish false financial trails. In another case, refund checks were written and ledgers were made, all for checks that were never mailed to students. Finally in another case, over 100 student files were completely fabricated to establish a list of graduates who did not exist. In each of these instances eventually the facts came out, but the nurturing educational system of old was not equipped to go into a school and review files and detect these charades, and this is something that is evolving slowly but surely.

The number 2 point is that the legal system is basically on the side of the owners; you have heard that from several sources in the last 2 days. Owners of schools can hide for years behind due process and the court assessed value of a school to keep accrediting agencies and sometimes Federal and State agencies from taking actions against them, and that is a recognition—what the Inspector General was mentioning yesterday—of how important it is to be able to cut through some of that red tape and be able to actually stop the loans when you have evidence that students are being hurt.

Number 3, the oversight organizations do not function as a unit. There is a recognizable lack of communication among oversight agencies. Part of this is due to petty jealousy, part to bureaucratic territoriality.

For example, the State of California policy on how a branch must or must not be approved has changed dramatically. Without formal notification of policy, an official sent a curt letter notifying ACCET, at the time I was there, that the California procedure in the State did not require dual approval, and in fact that the accrediting agency approval was enough and that sending to the State asking for their approval was just a burden in paperwork to the State. Then later, with no official notification or communication from the State, another terse letter was sent reversing this decision, saying that State approval was mandatory before the accrediting agency had any authority to approve a branch. Coordinating policy between State and accreditor became almost an adversarial position when there really was not any preliminary structured communication going on. I think this illustrates the point that there is a lack of communication between State and accrediting agencies.

Finally, number 4, there are conflict of interest issues which do not have effective direction or appeal procedures. For example, we have heard in the last couple of days, fee structures of accrediting agencies represent such an example of a conflict because they are supported by their membership, and although this relationship has indirect links and several checks and balances, the basic premise is something that is always questionable.

There is tendency among human beings who have been given relative power to become bully-ish. I deliberately chose the word "bully" rather than some other word such as intimidators or something perhaps more sophisticated, because I think all of us relate psychologically to the gut reaction feeling of what it feels like to be bullied. I think what we are talking about in a lot of ways is bullying at very different levels, from the level of the accrediting agencies to students, from the schools to students, from the states to the students, states to accrediting agencies, the Federal Government on down.

I am defining a "bully" here as someone who has authority to provide a needed service, accessibility to funding, or specialized information, and who isn't able to review the situation from the recipient's point of view. Because of this tendency that exists without a strong power to check it, some use power unfairly and bribery, extortion and unresolved grievances occur. I have witnessed and heard of cases where schools have felt compelled to perform actions, give gifts, or spend money in ways not mandated by any procedure because it was felt these actions must be done in order to maintain a status quo, to attain or retain accreditation, Federal funding, or State recognition. There needs to be an ethical code which is clearly disseminated to school owners and to accrediting agencies in the same way that schools are now giving students a bill of rights prior to admission.

If a school owner or accreditation applicant is told he must pay a special consulting fee prior to being accepted for accreditation review, he might not know what his rights are legally.

Senator NUNN. Who tells them that? You got a school here and you got an accrediting agency here.

Ms. DE VRIES. I have heard of several different instances, but it can be that a State official tells a school that in order for your paperwork to get through the State you need to pay me a special fee, or it can be a little more subtle with an accrediting official saying, it looks like you are going to have difficulty getting through this, and in order to get through smoothly you need to have some special consultation, and I will provide that.

Senator NUNN. So the same person doing the judging is offering to provide consultation on the side?

Ms. DE VRIES. Yes.

Senator NUNN. And get paid for it?

Ms. DE VRIES. I am not saying this happens all the time, but there have been instances of this, and I think this is the same level of conflict of interest of bullying I mentioned earlier.

Senator NUNN. You could call that bribing too, couldn't you, as well as bullying?

Ms. DE VRIES. Yes. I think all these terms fit under one category though: bullying/conflict of interest.

Anyway, that person would not know necessarily what his rights would be legally or how to officially discover whether or not this is a legitimate fee or a payoff and/or how to report it. Currently there is no clear line of demarcation. If a school owner is asked by any official to pay or donate for possible promise to perform special consideration, there is no authority or documented procedure which can or does outline the consequence of saying "no". Therefore, any action, from requesting a small donation of equipment to a travel fee, to an actual payment of the fee, represents a decision for which the school owner has no clear choice, no option to say "no" without feeling or becoming vulnerable. When we permit systems to operate without publishing a commonly acknowledged code of conduct or an official appeal or clarification procedure, we in effect condone this bullying as a way of life. The consequences to the quality of our system are subliminally poisonous.

In conclusion, it is my belief that many of the problems we are discussing here today have a direct correlation to the bully syndrome and the lack of a "bullied bill of rights". The victims are everywhere—the students, the school owners, the accrediting agencies, and the taxpayers.

We have spoken about how bad schools get in the system and how they remain. In my written testimony I have described for the record how good schools get in the system and what we need to do for them to remain and not be casually grouped with those who violate our faith in the educational system. In conclusion to our discussion of problems today, we must acknowledge that there is a lack of common understanding of goals and purposes. We must decide collectively two very simple things: one, what do we want to have happen? And two, how do we want that to happen? And that means delegating who monitors Federal aid to coordinating what an accrediting agency actually finds in its scope of review, and on down the line of responsibility. But very simply, there are two questions we must answer. What do we want? How do we want it to happen?

I believe we need to cooperate at all levels in affirming what we have, eliminating what is disruptive, negative and destructive. It takes courage, foresight and leadership to do this. I support this responsibility and obligation of this vision, and I would be happy to help any way I can. Thank you for the opportunity to testify.

Senator NUNN. Thank you, Ms. De Vries.

Ms. Friedheim.

TESTIMONY OF JAN V. FRIEDHEIM, FORMER MEMBER, NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY [4]

Ms. FRIEDHEIM. Thank you for the opportunity to appear here today. I first want to clarify that I am not representing AICS, nor am I currently a board member of AICS. However, what I am is several things, I have several hats today.

I started my own school in 1960. It is a secretarial school in Dallas, Texas. I am the owner of that organization. I did serve on the AICS accrediting commission from 1974 to 1979. In fact, during that time I was chairman of the accrediting commission. I went on then to become the Chairman of the Board of Directors of AICS.

I have also served as a member of the Board of Trustees of the Southern Association, because our school is dually accredited by a regional and a national accrediting organization. In serving on the Board of Trustees of Southern Association, I was able to also be an ex officio member of their Commission on Occupational Education Institutions, COEI.

Since 1974, I have been very active as a team leader and team member on evaluation visits for both Southern Association and AICS. From 1981 to 1983, I was a member of the National Advisory Committee. In addition, I teach classes and I am currently late to a class.

So I would like to bring you the view from the student, from the institution, from having served on the National Advisory Committee, served as a team evaluator; and tell you, first of all, I am very optimistic, along with the IG's office, that we have a process that works; we can improve it; and I think that is what this Committee is determined to do.

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[4] See p. 290 for Ms. Friedheim's prepared statement.

I would like to clarify a couple of things that have been said in the past 2 days. One, the staff report noted a tremendous increase in student aid since 1986 to 1990. I think that is true, and the reason that it is true, I think, is very important for this Committee to address. And that is the matter that the grants have not kept up with the loans. And so the loans, which were designed for the middle-income student, are now going to the low-income student, and that is a part of the puzzle that needs to be corrected. Until that is corrected, defaults will continue to escalate. The high-risk student should not be receiving loans today, but grants. The IG office suggested overhauling, and in the overhaul I do hope grants will be updated and we can correct the imbalance. Until then, defaults will not dramatically go down.

Yesterday it was implied that loan and grant money went to the school. I think we should not forget that they all are an educational voucher system that the Government has designed, and those vouchers go to the student; they do not go to the school. I agree with the staff report that also says that grants and work study have not kept pace with the tuition costs.

The person most likely to default is the person that I had in my office Monday, a student with low income, her car had just been repossessed. She is about to graduate. Her father has not been working for 4 months. They have been evicted from their home. She is going to graduate this month and go to work, but I tell you one thing, Maria is not going to have first on her mind repaying that loan. The first thing she is going to do is buy a car. She is going to continue to support her family. And I am sorry to say that that is a default waiting to happen. It is a person in too low an income bracket having to absorb loans when grants would have been the answer.

I would like to just take one minute about Tommy Downs' testimony. I have a real problem with a liar and a thief standing up here telling us that the system doesn't work and making mockery of the system. You see, the system worked, that is why he is in prison today. It may have taken too long and we need to shorten that fuse; but, you know, if he had given that testimony from the Bahamas incognito, I would have been impressed. But what I am impressed with was his testimony is that he is in prison for committing a crime. If we have a way to legislate and regulate against crooks and thieves I am all in favor of it.

Senator **Nunn**. Of course, he got away with stealing an awful lot after he was already under investigation. He set up another whole school and did it again, and he was discovered by his own secretary. So I am not sure that——

Ms. **Friedheim**. Yes. He was discovered because HEAF sent the list out, and that is what the financial aid checks are about. And so if the secretary didn't catch him, the financial aid person should have. You know, he was never—when you check the records—he was never the owner of record by the Pennsylvania Licensing Board nor the accrediting commission. So he in effect was not an owner, and I believe the NATTS people will be giving testimony on that later today. So he lied up here in saying he was an owner.

Certainly we don't want abuses like Tommy Downs to continue, but he did get caught, and thank heavens.

The staff had three recommendations. One was to limit branching. I think all the accrediting agencies, as Dr. Manning has mentioned, have instituted procedures to limit branching, so branching I think was a problem in the mid-1980s but has been stopped. I know that there has been a negative increase in branching in AICS schools in the past year, so I believe the branching is already curtailed.

It was also inferred that you could buy accreditation, and I really would like to explain that, because you can buy a school that is accredited, but that school has to go through a complete review process as if it were a new institution—new papers, new licensing by the State, a lot of red tape by the Federal Government. So, in effect, you really cannot buy accreditation today.

Well, my view from an accrediting agency point of view has to do really with the conflict of interest issue. There have been a lot of people that have said that insiders should not go on team visits and insiders should not be on accrediting commissions. That very thought scares me to death. Who else understands financial aid? Who else understands, if there are bodies buried, where to find them? It is like saying don't have water treatment experts give you advice about water systems. We have to have insiders.

Yes, they need to be balanced with outsiders, but insiders—I have never seen an insider be anything but tougher on a visit or on an accrediting commission. And the reason is pretty simple, if you accredit a bad school, that hurts the good school. And it is not a "good ol' boys" network where you want to be good to each other because they are going to come back and be on your team. The chances of that, frankly, are astronomically impossible anyway. The point is that if you overlook something and that school does a disservice and they get in the press, you are tainted with their reputation and you cannot survive as a school owner.

So I think we have very vested interests, yes, in seeing that the system works, and I have never been on a team with AICS or SACS that we didn't have specialists that could address specific issues. I can't imagine of anyone going to a barber school without barbering knowledge. That is atrocious. And that should be a requirement of accrediting commissions. But, in general, the teams that go out are as good as the people on the team, and that means accrediting agencies need to improve their training of teams, they need to constantly monitor their teams. And one of the things AICS does is they make sure there is a staff person on every team, and that is to make sure that no one gets out of line, and if they are not doing a thorough job, to bring them up short and make sure they do a thorough job. So it is all in the training.

Frankly, teams have changed in the last 10 years because we spend more time now trying to monitor student financial aid than looking at the educational process, and I find that a shame. We used to have time to sit down and call employers and say, you know, how is Suzy Q doing on that job, and measure the output. Now we are engaged in looking at financial aid records far, far too long.

The IG's office did talk about that expectation gap, and there is an expectation gap. There is a gap between what accrediting agencies think their job is, what the Department thinks its job is, and with the State licensing people. By doing visits in a lot of different States, I have to tell you the differences are so—the experiences are so unique. Georgia, your State, I did a visit there. The licensing person told us accredit this school, it is a wonderful school. Well, first of all, teams don't accredit schools. But as we continued to quiz the person, the nice lady said, well, actually she had never been to the school before. It was a small school and she had never been there, but she had never had a complaint, so therefore it is a good school. That does not make it a good school.

On the other hand, you go to schools in New York—and I have done a lot of schools in New York—in fact, I would like to tell you the system does work. Ms. Imholz talked about Crown Business School being out of business. I was the team leader on the visit that denied their accreditation, and it was our team that found the evidence of noncompliance with the standards that began to put Crown Business College out of business.

New York licensing agency we find very cooperative. The State licensing people rush in to help, share information, and make the whole process work. Now, making it work faster, I think, should be the goal of this Committee.

My experience with the National Advisory Committee was interesting and frustrating. I have some very different views. We had an outstanding Chairman of that Committee. We had a Chairman who understood the system. We had three members that understood accreditation. And the rest of the members didn't know why they were on the Committee. We had one very delightful lady who at the end of every meeting said, "Could you tell me again what it is we are supposed to be doing? Doesn't this have anything to do with the rights of the elderly?" This went on every meeting. Bless her heart, she was reappointed.

I really suggest that the National Advisory Committee can be very, very helpful to the Department. It should be non-politically appointed. I think the Secretary of Education should make the appointments, and I think there should be criteria for service on the National Advisory Committee, and that the training for the National Advisory Committee members should be enhanced.

Senator **NUNN**. Who makes the appointments now? Is that the President?

Ms. **FRIEDHEIM**. The President.

Senator **NUNN**. The President does?

Ms. **FRIEDHEIM**. The President.

Senator **NUNN**. You are saying they are now made politically?

Ms. **FRIEDHEIM**. Very definitely. There is no question, when you sit around that table, it is a political appointment. And that is not fair to the people sitting at the table, because it is hard work, and the people that come and generally are on that Committee are not equipped, either in background nor plans, to sit and work as hard as that Committee has to work. So I think it should be totally restructured.

At the time I was on there, for instance, my last meeting I was extremely distressed. ACCET presented their petition. One of four people who understood accreditation and had some linkage with accreditation, I had direct knowledge that ACCET had already accredited some institutions, one that had lost its accreditation from AICS, a small word processing school in New Jersey.

Senator **Nunn**. Could you tell us a little bit about these initials? I am not sure everybody follows who these are.

Ms. **Friedheim**. All right. At the time it was CNCE. It was the Council on Non-Collegiate and Continuing Education, and they were not on the Secretary's approved list. And their petition said that they—the Dale Carnegie's, the Smoke-Enders programs, the special continuing education programs—they assured the advisory Committee that they in no way wanted any of their institutions to receive Title IV funds, that their motivation was credibility so that employers would be inclined to reimburse employees who took these continuing education programs. Well, that sounded well and good, and the only problem was that I knew that was not in essence what was going on with that organization at that particular time. So I began questioning them, and they finally admitted that yes they were in fact accrediting some institutions that were training people for business, in addition to their continuing Ed programs. And I was able to get them to confess enough before the group that I was able to convince the panel not to recognize, not to put them on the Secretary's list.

So we deferred action and asked them to get all sorts of documentation to us. Unfortunately, I was not reappointed and at the next meeting they were put on the Secretary's list. And I believe that that organization has had a considerable growth problem in establishing standards to do what accrediting agencies need to do. They are now known as ACCET, and, Ms. DeVries, you can probably tell me what ACCET means better than I can. It is the Accrediting Council for Continuing Education and Training.

My other observation being on the Advisory Committee was that the Department of Education people were competent, dedicated, concerned, but not adequately staffed. At least the division working directly with the eligibility and accreditation group were really stretched personnel-wise, and with the increase in activity, I can't see how it can be anything but a worsening situation at this point.

A word or two about an institution. Yesterday it was said that schools have no financial risk in the program. I beg to differ. We have a big financial risk. We own our default rate. Good, bad, or indifferent, it belongs to us. It stays with us. Our students can lose access to the SLS program if our default rate reaches a certain level. It affects everything we do.

One thing we need, since we own that rate, is the ability to refuse SLS when the time is right. And I say that based on personal experiences. There are students that are fraud and abuse people also. We had one recently who came to us, the financial aid officer, and said, "I am in school, I have been in school a few weeks, I want an SLS loan."

And the financial aid person said, "Why?"

And she said, "Because my husband and I want to take a trip and we need a car, and I want you to know I am quitting school the day I get my SLS money."

And the financial aid officer said, "I will not give you the papers."

And the student said, "That's fine." And she went in and used the phone, called the Texas Guaranteed Student Loan Corporation where she was told that we must give her the papers. She came back, reported that to us. We then called them and they said, yes, we must give her the papers. We gave her the papers, she got her check, and we have never seen her since.

Now that is our default, that default belongs to us.

Senator NUNN. You mean even if the students told you that they were not going to use the loan for educational purposes, nobody can stop that?

Ms. FRIEDHEIM. That is correct, and that needs to be corrected immediately.

Senator NUNN. Is that by law, or is that because of the way it is administered in Texas?

Ms. FRIEDHEIM. No, it is not just Texas. It is considered discriminatory, and we do not have the ability to say no, even when the student looks you in the face and says, "This is a joke, I came here to get this money."

Once you have certified that student and started them in school, they have total access. And this allows for fraud and abuse with the students. And we can correct that and schools would like to. We need a little power, and we hope that you will——

Senator NUNN. Do you think a legal change has to be made, a change in the law has to be made?

Ms. FRIEDHEIM. Yes, because the Texas Guaranteed Student Loan Corporation told her that they would aid her in a lawsuit against us if we refused.

Senator NUNN. Well, that does not necessarily mean that the law has to be changed though. Lawsuits are filed all the time that are no good.

Ms. FRIEDHEIM. Well, my opinion, from having talked to legal counsel, is that it is within their rights at this point to demand it and we would be legally negligent if we did not honor their demands, Now, I would love for you to pursue it.

Senator NUNN. We will check that out, and I believe your testimony. I believe that, but I just have a hard time believing that the people interpreting the law in the Texas agency are correct.

Ms. FRIEDHEIM. We have a hard time with it too, but it is not just in Texas. There are other states that have told me the same thing.

We also would like to engage in the collection process. I wish you could, when you are overhauling this program, enable institutions to assist in the collection process, because we could be very, very helpful. In Texas, and in many states, we have already set up a tuition reimbursement plan so that if a school goes under, the students are covered. And that is something that schools want to do, and we are definitely in favor of it. But we cannot afford to have that happen and have students on the street without getting their tuition reimbursed in school failures, and we want to participate. We want a vested interest in the program.

Senator NUNN. Would you need a financial incentive to do that, or would you just need the legal authority?

Ms. **Friedheim**. No, we don't even need that. We just need encouragement. I mean, it is already happening in many states, but it could be mandated and you would have cooperation from the school community.

The students need something. They need some protection in this program when you go in to overhaul. PLUS loans—that is parent loans—currently go to the parents. Let me tell you, what is happening every day in the United States. Parents are receiving those loans, parents who are economically disadvantaged, and the kid has this one chance to go to school and they need those funds in order to go to school, and that parent is taking the money and spending it. We have a student right now who is out of school because her parent bought a car with the PLUS loan. Those PLUS loans have got to be made co-payable to the school and the parents to give that student a chance to have access to the money. Otherwise, that money will walk out of door with parents.

And I know that is hard to believe, but in one case the parents used crack. They needed some drugs. The student, on the other hand, is a very straight arrow student who is trying very hard to pull herself out of the ghetto. We kept that person in school. She is never going to be able to pay her tuition until we get her out of school. And we will accept that risk. But those students, it breaks your heart when you know that the parents have abused the system.

I think students would benefit tremendously by receiving payment books at their exit interview, so if the payment books from the lenders could be sent to the institutions and we disburse them, the student then does not get lost in the maze of the loans have been sold 10 times, they cannot find their lender, they cannot get their coupon book, and they don't have all that hassle. This is not a problem of just the triad, it is the problem of lenders, guarantee agencies, all of the people who interact with the students.

The last thing—and I will try to cut this off—is that students who receive student financial aid, also the U.S. Department of Education could assist us tremendously by establishing that if you take Federal dollars to go to school and you use those Federal dollars in an institution that is accredited, that next institution, if you want to go on, should recognize the courses you have taken and not make you repay to take those courses.

So if we had some transfer of credit mandate that other schools be required to at least look at the courses that you have taken, actually the Federal Government right now is paying twice for students, and that is a travesty that is being brought on the students. Not one person can solve the problem, but I think with that the triad, we can improve the State regulations, the accrediting agencies, and we can improve the Department of Education. But the one thing we don't want to do is close the door on access to students, because it is the student that needs the training. Thank you.

Senator **Nunn**. Thank you, Ms. Friedheim. All of you have been very helpful, and I would just like to ask you a couple of questions and then I would defer to my colleagues.

You have a lot of interesting suggestions and you obviously know the inside of this. I mean, that is very apparent. Have you told the people in the Department of Education this? Have you had access to the Department of Education?

Ms. **Friedheim**. No, I have not.

Senator **Nunn**. But you have been on the National Advisory Committee, have you not?

Ms. **Friedheim**. Yes, I have, but I have been off of it——

Senator **Nunn**. Maybe you could tell us a little bit more about what that Committee is supposed to do.

Ms. **Friedheim**. That Committee approves accrediting agencies to be on the Secretary's list.

Senator **Nunn**. So you are really the agent for the Secretary in looking at accrediting agencies?

Ms. **Friedheim**. Yes, you are. I have transmitted many of my ideas to Joan Givens of that Department.

Senator **Nunn**. Of the Department of Education?

Ms. **Friedheim**. Of the Department of Education.

Senator **Nunn**. What is her title?

Ms. **Friedheim**. I don't know what her title is currently. I believe she has been promoted.

Senator **Nunn**. Does she work with the National Advisory Committee?

Ms. **Friedheim**. Yes, she works with Accreditation and Eligibility, and in fact she did her thesis on how the Advisory Committee could be improved. And I have not seen the final work, but I think it would be a very interesting document for your Committee, because that is an important committee. The Secretary needs that committee, but——

Senator **Nunn**. Did you ever meet with the Secretary on that committee?

Ms. **Friedheim**. No. I did with Terrell Bell, but only in the initial stages when I hadn't formulated any real opinions. But I would love to transmit my ideas to the Department of Education.

Senator **Nunn**. When you say that the National Advisory Committee is political, would you tell us a little bit more about that? I mean, what kind of people are being put on it?

Ms. **Friedheim**. Well, the lady that I referred to was affectionately called a "Gray Panther," okay? She was an activist in California and for the elderly—elderly rights. And she was very active in the campaign for President Reagan and she was appointed as a thank you for all of her hard work in California.

Senator **Nunn**. But she knew nothing about education?

Ms. **Friedheim**. She knew nothing about education. We had some business people on there that knew nothing about education.

Senator **Nunn**. Did they take an interest and try? Did they try to learn?

Ms. **Friedheim**. Those people didn't particularly. They really thought it was far too complicated and they had other things on their minds and they would come in and out of the meetings.

Senator **Nunn**. So it was just an honorary kind of thing for them?

Ms. **Friedheim**. Yes, and that is what they thought it was going to be, and one of them resigned almost immediately when he discovered how much work was involved and knew he couldn't make the commitment for that type of work. We did have the chancellor of—let's see—we had a dean from the University of Georgia who was very good. And we had the chancellor from the California system, but he only came once in 3 years.

Senator Nunn. It is a 3-year appointment?

Ms. Friedheim. Yes.

Senator Nunn. And how often are you supposed to meet?

Ms. Friedheim. Twice a year.

Senator Nunn. Are you supposed to get paid?

Ms. Friedheim. No, we did not get paid.

Senator Nunn. Just a per diem or something?

Ms. Friedheim. Per diem.

Senator Nunn. You meet twice a year, but how much work are you supposed to do in the meantime?

Ms. Friedheim. Well, they never sent us anything in between time. And we could have done a lot of work, which would have lessened the load when we came into town. You read files, you have hearings such as this where the petitioning—accrediting agency comes before you, and there is an opportunity for third-party comment on that agency. And so you hear if there is anything negative. The staff gives you a report because they have reviewed the file of that agency.

Senator Nunn. Does the staff basically do the leg work, the Education Department staff?

Ms. Friedheim. The staff does the leg work. They do the hard work. And when they have an Advisory Committee that is not functional, they do all the work.

Senator Nunn. Would you say that basically the Advisory Committee was not functional?

Ms. Friedheim. Basically. The four of us that were concerned and knew what was going on would work during lunch, work when the meeting was over for the next day, and work into the night to take up the slack of the people who were not concerned.

Mr. Manning. Senator, if I may comment, I have observed the National Advisory Committee for some 15 years. It has its ups and downs. One of the problems is that the duties of the National Advisory Committee are not really those of an advisory committee. It really occupies the wrong kind of niche in the Department of Education, because its principal activity is ministerial in nature, reviewing the applications of the accrediting bodies for recognition. It makes very few suggestions with respect to policy, which is what advisory committees generally do.

Senator Nunn. So really the way it is set up, it is supposed to be a real working committee?

Mr. Manning. That's correct, but it is set up as an advisory committee, which means that indeed the appointments are subject to political considerations, and in recent years the political considerations, I regret to say, have taken precedence over the professional qualifications of the persons who serve. These people really want to do a good job, in my view. They are not there to fluff off or anything of that sort. But it is very difficult if you do not have a background or knowledge of the activities in higher education and accreditation, which is a fairly arcane subject, to come up to speed with two meetings a year.

In addition, during Mr. Bennett's period as Secretary, the Secretary simply failed to make appointments to the National Advisory Committee on occasion, so those two meetings a year sometimes did not occur.

Ms. **Friedheim**. And the training for that, we would have about a 45 minute to an hour briefing at the beginning of each session, and you cannot teach accreditation in an hour.

Senator **Nunn**. Well, who is really doing the accreditation then, I mean, if this is the group that is supposed to be?

Ms. **Friedheim**. The Department.

Senator **Nunn**. The Department itself is doing it, the staff?

Ms. **Friedheim**. Yes.

Senator **Nunn**. Now, is anything wrong with that?

Ms. **Friedheim**. I think, just as——

Senator **Nunn**. Do we need an Advisory Committee?

Ms. **Friedheim**. Just as schools are reviewed on an accrediting agency basis by at least two readers, I think you need at least two readers, those being the Advisory Committee and the staff, to give a balanced view.

Mr. **Manning**. You also have the problem, Senator, that in fact it is the Secretary's decision. The action of the Advisory Committee is advisory to the Secretary. The Secretary can do whatever the Secretary wishes to, and in one case the Secretary has added an accrediting organization to the recognized list without the recommendation of the Advisory Committee.

Senator **Nunn**. Ms. Friedheim, how long were you on that Committee?

Ms. **Friedheim**. Three years.

Senator **Nunn**. What years were those?

Ms. **Friedheim**. Let me be sure—1981 to 1983.

Senator **Nunn**. Was there a period in there where there was no meeting at all?

Ms. **Friedheim**. No, I believe we had our two meetings.

Senator **Nunn**. I understand that at one point during the 1980s there was not even a meeting for a couple of years.

Ms. **Friedheim**. I think that happened right after I went off, but we were very concerned about funding.

Senator **Nunn**. But this really, you are really saying this Committee should be performing a very important function?

Ms. **Friedheim**. Absolutely.

Senator **Nunn**. I mean, the heart of the accreditation is based on who is going to be allowed to do it.

Ms. **Friedheim**. Absolutely. To me it is the most critical point that is the weakest point right now and it could be resolved so easily, to make the Secretary in charge of the appointments, have a criteria for appointment on that committee, and enough training to make them truly functional. Then you have a balance and then you have a chance of doing the job right.

Senator **Nunn**. Senator Roth?

Senator **Roth**. Whom were you appointed by, Ms. Friedheim?

Ms. **Friedheim**. The terms are staggered. President Carter appointed me for a 1-year staggered term to fill out someone else's, and then President Reagan came in and he appointed me for a 2-

year term. So the terms vary in length depending on what slot is available at the time. So I served 3 years.

Senator **Roth**. The National Advisory Committee is set up by law; is that correct?

Ms. **Friedheim**. By statute, yes.

Senator **Roth**. Is it realistic to expect an advisory committee that meets twice a year, and is not paid, to really perform a very significant function, as I understand this one to be, or have we maybe improperly constituted the Advisory Committee? Can you really do it in 2 days?

Ms. **Friedheim**. No. I think you need three meetings a year, minimum.

Senator **Roth**. Isn't it more than a matter of meeting if you are really going to perform? Doesn't it require considerable study and review?

Ms. **Friedheim**. I think materials should be distributed to the committee members in advance of the meetings so they have time to review, to get their questions together. I agree with you.

And in the training program, I would hope that there would be a change in the whole mechanism by which the committee works.

Senator **Roth**. My concern is that it seems like we have set up something that sounds good in principle, but ask for this kind of an operation.

Ms. **Friedheim**. If I could answer something you added that I did not answer, you asked is it feasible that these people would come without pay. Members of accrediting commissions come without pay, and they gladly give their time because they are concerned about accreditation. I think a blue ribbon panel for the Secretary would also come without pay three times a year and do an excellent job if the right criteria were in the mechanism.

Senator **Roth**. I agree with you, there are many public-minded citizens that will, but you are also limiting those who can do it to those who have the financial means of doing it.

Ms. **Friedheim**. Or those whose institutions would support it financially and allow the person the time off.

Senator **Roth**. But then again you can be running into the so-called conflict of interest.

I think you make a valid observation in your testimony when you say that we have become so concerned about conflicts of interest that it is very difficult to acquire anybody who has any expertise. I think your observation that we ought to have a mixture makes some good sense. Otherwise you end up with people who have no experience.

On the other hand, you have to be careful that there isn't any so-called back-scratching, where peers are judging each other.

Ms. **Friedheim**. I think that quality accrediting agencies have a very serious commitment to the no-conflict-of-interest situation. There is no accrediting commission I know of that anyone who has knowledge of an institution is allowed to discuss it or vote on it when it comes up.

I think the Advisory Committee nationally could have a mix of people not directly at institutions, but who have a background in education and accreditation, and are in business. So I think some public members should be on that group, too.

Senator **Roth**. Mr. Chairman I just want to make one comment—I'm sorry I missed part of the testimony—but I have to say that I consider it alarming that the default rate will consume 37 percent of the amount appropriated for the Student Loan Program in 1990. This fact is a clear indication that current safeguards are not working. Maybe to have access—I think that is a real problem, and my understanding is that you raised that, Mr. Manning—but I don't think it is appropriate to do it by a student loan that results in this kind of default because I think it puts the whole program at risk. It seems to me that the way the problem has to be addressed, of course, is in grants and by other means. But I fear that this would destroy a program that has been very useful.

I would ask that my full remarks be included in the record.

[The opening statement of Senator Roth follows:]

OPENING STATEMENT OF SENATOR ROTH

Mr. Chairman, as I mentioned yesterday, I commend you for providing the opportunity through these hearings to address the serious problems in the student loan program. The alarming default rate, which will consume 37 percent of the amount appropriated for the student loan program in 1990, is a clear indication that current safeguards are not working. As with the savings and loan crisis, it may well be that if we don't act now, we may have to face much greater problems later.

Congress must do its part to prevent such a tragedy. The Senate has passed measures to reduce the student loan default rate in this Congress and the last Congress, but these measures have never been adopted by the House of Representatives. Many of these provisions would have helped to eliminate problems that we have been discussing in these hearings. For example, the Senate passed legislation includes a provision which limits proprietary schools in their hiring of recruiters, a problem we heard about yesterday. The Senate passed measures includes provisions which would make students easier to locate should their loans go bad, and would require lenders to be more involved in the student loan process. I understand that some of these proposals are currently being discussed in a conference committee. It is my hope that these provisions, at least, will be enacted into law.

Again, Mr. Chairman, I commend you and your staff for holding these hearings. There is no doubt that it is time for Administration and the Congress to crack down on shady schools, shoddy accreditation practices and shifty lenders. And we need to do it now, before the bill becomes too big to pay.

Senator **Nunn**. Thank you very much, Senator Roth.

Mr. Manning, one other observation. Staff tells me, after having looked at this for quite a while, a couple of years, that even though it is true that all high default rate schools are not necessarily bad schools, there is a correlation that when you get a high default rate school usually there is also connected with that school other problems as well.

Mr. **Manning**. I agree there is a correlation. I don't think you can say it is an absolute circumstance——

Senator **Nunn**. Not absolute, no.

Mr. **Manning** [continuing]. And one of the recommendations that I make in my extended testimony is that it ought to be a matter of routine for accrediting organizations as well as for the Department of Education to examine individual cases where there is high default——

Senator **Nunn**. Certainly a red flag, a warning flag.

Mr. **Manning**. Exactly. And I should say, Senator, that I think none of us believe that the status quo should be maintained unchanged. We do need to change. We have problems, and we all need to address them together.

Senator **Nunn**. We appreciate that, and your testimony here today has been very valuable and constructive. We thank all of you for being here.

Next, we have a staff statement relating to one particular case study of a school, the Culinary School of Washington.

We have Deputy Chief Counsel John Sopko and investigator Mark Webster who will be testifying. I'll ask you, John, and Mark to hold up your right hands and take the oath before you testify.

Do you swear the testimony you give will be the truth, the whole truth and nothing but the truth, so help you, God?

Mr. **Sopko**. I do.

Mr. **Webster**. I do.

Senator **Nunn**. We thank you for your hard work, and we look forward to your presentation.

TESTIMONY OF JOHN F. SOPKO, DEPUTY CHIEF COUNSEL, PERMANENT INVESTIGATIONS SUBCOMMITTEE, AND R. MARK WEBSTER, INVESTIGATOR

Mr. **Sopko**. Thank you, Mr. Chairman.

We have a rather lengthy statement,[5] with exhibits, and I will ask that those be introduced at this time into the hearing record as if read, and what I would like to do is summarize the highlights of the staff statement, some of which has come up over the last 2 days' testimony.

Senator **Nunn**. How many exhibits do you have; what are the numbers?

Mr. **Sopko**. Senator, first of all, we have a list of chronologies, A through G. [See Exhibit No. 52.] In preparing the case study we did a chronology on each of the major agencies involved—that would be seven chronologies and supporting documents. In addition we have a number of statements for the record, 10 statements for the record. [See Exhibit Nos. 53–62.]

Senator **Nunn**. Without objection, they will be admitted and so numbered.

Mr. **Sopko**. Senators, as we explained yesterday, one of the basic questions that this Subcommittee has asked the staff to answer is why bad schools get into and continue to operate in the Title IV program.

In attempting to answer that question we took a look at a school that was recommended to the staff as highlighting some of the major problems. That was the Culinary School of Washington, which went out of business this year in 1990. So it is a recent case study.

The Staff review of the Culinary School, revealed, in general, a history of serious and recurring problems that affected both the taxpayer and the student. The best summary of that, Senator, is the Inspector General's inspection report of May 21, 1990 that was referred to yesterday by the Inspector General. However, contrary to what the Inspector General said yesterday, it did not precipitate the demise of the school. The school had already effectively closed its doors before the issuance of this report.

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[5] See p. 307 for staff statement.

In that report it states:

> There were numerous misrepresentations made to students concerning housing, availability of supplies, transportation, training and other services. The school's owners also demonstrated a careless disregard for laws and regulations concerning obtaining proper licenses for recruiters and licenses for the Culinary School campuses. In an apparent effort to delay and conceal this problem, checks were backdated or stop-payments made, and inaccurate documents were prepared.
>
> The harm to the students and the Department of Education resulted not only from the school's and its owners' noncompliance, but their failure to meet the expectations of the students recruited to attend that school.

Those findings in May of 1990 are confirmed by a litany of horror stories going back to the founding of this school. As a matter of fact, Senator, problems relating to this school even predate its eligibility for the Title IV program.

Investigator Webster, who is with me today, uncovered evidence that there was an audit done when Mr. Kibarian was president of Southeastern University here in Washington, DC. That audit showed that there were allegations that Mr. Kibarian had embezzled over $100,000 from Southeastern University for the benefit of his wife and himself—because he was also at that time trustee of the Culinary School of Washington. This audit was available to the accreditors and the licensing bodies. It was referred to and reported by the Washington Post in 1983, 1984 and 1985—preliminary to the accreditation by ACCET, during the time in which NATTS was reviewing the school for re-accreditation, and obviously in time for the Department of Education to do something about it.

We found no evidence that any of those bodies did anything with this very serious allegation concerning Mr. Kibarian and his suitability to participate in the Title IV program.

Senator, from the students' perspective, we contacted a number of students and a number of former employees, who also painted a horror story with the school. A classic example is cited by the former French instructor, Sharon Marburg, who mentioned, among the many problems, that she was outraged by the facilities and primitive conditions in which the students were supposed to learn. She stated:

> I had to meet in classes in local taverns, where music was blasting, lighting was inadequate, and the smell of stale beer, smoke and vomit permeated the room. The class locations kept changing, but they never got better.
>
> The students told me that the facilities were underequipped and roach-infested. They also stated that the food used for teaching was often rancid and usually missing.

This pattern, Senator, continued throughout its existence. When we refer to the Culinary School, Senator, what we are really referring to is a school for scandal.

If you look at the triad, Senator—licensing, accreditation and the Department of Education—you see inaction and a paucity of aggressive investigations.

Turning to licensing, although the DCRA, which is the Department of Consumer and Regulatory Affairs, with the District of Columbia, was aware of numerous complaints concerning what I have just described, it appears that up to 1989 when they gave up licensing jurisdiction, they did little if anything about these complaints.

On the other hand, the DC Education Licensure Commission, which then took over licensing jurisdiction in 1989 and also had jurisdiction over 2-year schools in the District of Columbia, appears to have done more on the regulatory side.

But overall, Senator, the staff found that although actions by the licensing bodies may have eventually resulted in the school's closure in 1990, they appeared to have been generally ineffective.

Returning to the actions of the Education Licensure Commission; in December 1984, Senator—and this is very important when you compare the chronologies—they did a staff site visit of the school. What is important about this December 1984 date is that it precedes the ACCET site visit and accreditation by ACCET.

In this licensure visit, the site team for the District of Columbia found that the school was administratively and educationally unsuitable. It found, for instance, that in the application, the Culinary School claimed that they were operating under a 17-person board of directors. The site report states, "This clearly was untrue. This board never met, and several members expressed surprise when apprised that they were listed as board members."

It also found that, Mr. and Mrs. Kibarian were the only remaining members of the 1983 administrative team. It noted that the Culinary School had experienced a 100 percent turnover in faculty. It also criticized the school for site changes and an inadequate library.

The site team noted that the school's catalogue indicated that housing would be available at local universities. Unlike other site teams, the team appeared to have actually done some work. It seems they contacted all the local universities in Washington and they expressed surprise that the Culinary School even existed—some of them had never even heard of it. Nevertheless the site team discovered that the Culinary School was advertising that students would be housed at local universities, like American University, Georgetown and George Washington.

To the Subcommittee staff, these findings are significant since they should have raised serious concerns about the school's qualifications for not only the Title IV program, but also for the proprietary school license held in the District of Columbia. Yet, it appears that nothing happened as a result of this site visit.

The chairman of the DC Licensure Commission pleaded with the Department of Education to do something about this school, and forwarded a copy of the site visit report. In the cover letter he stated: "the Commissioner has asked me to urge you to take whatever corrective actions that are in your powers to take to protect the citizens of the District of Columbia." Again, the staff found that there was no response from the Department of Education.

Senator NUNN. If we've got a triad, why does one part of the triad say to the other part, "Do something about this," when that licensing part has found the problem? Why couldn't they take the license away?

Mr. SOPKO. In this case, Senator, the Culinary School was licensed by DCRA, which was the regulatory body at that time, up to 1989. In 1983 and 1984, the Culinary School attempted to become licensed to be a 2-year degree-granting university. At that time, they went before the Commission on Licensure. The Commission on Licensure sent the site team out and concluded that this school was horrible. The Commission then denied the request for a 2-year license, but they had no control at all over the actual license by Culinary to be a proprietary trade school at that time.

As a result, they referred that report to DCRA, and, it appears, that like everything else involving DCRA, nothing happened. As one regulatory official told us, "DCRA writes good reports; that's it." And that is basically what we found. We found some excellent investigative reports, but it doesn't look like there was any follow up ever done by DCRA to these investigators.

Ergo, the Commission, realizing DCRA will do nothing, petitioned the Department of Education and sent a letter requesting them to do something since they, of course, can bar the school from Title IV funding. Unfortunately, the Department of Education did nothing.

Senator **Nunn**. Did they ever reply at all?

Mr. **Sopko**. We found no evidence of that, Senator. I'm not saying that there wasn't a reply somewhere in the files, but one thing you can say definately about the Department of Education files is that they are in poor shape. So we may have missed that letter. But more importantly, we could find nothing indicating that the Department did anything in response to the letter.

Senator, one other point—and I would like to emphasize that the DC Licensure Commission and the State of Virginia also noted this—namely that they are woefully undermanned, and in particular they were woefully undermanned to handle the Culinary case. DC Licensure told us that essentially during 1989, after DC Licensure Commission got jurisdiction from DCRA and initiated a number of investigations, but they spent essentially all of their manpower and all of their time during 1989 just working this one school. The State of Virginia advised us also that in 1989 and 1990 they were utilizing most of their resources in investigating this one school. This follows and supports the finding of yesterday that state licensing operations are undermanned and understaffed to handle these fast-moving, fast-growing proprietary schools.

Turning to the second leg, Senator, and that is accreditation, the Culinary School also highlights a series of problems with the accreditation process. The foremost is dual accreditation. Culinary was first accredited by NATTS in 1982 and later obtained accreditation from ACCET in 1985. The staff found evidence that appears to indicate that Culinary obtained ACCET's accreditation in response to NATTS' decision to revoke the school's accreditation.

In May of 1984, NATTS started receiving complaints, serious complaints, about the Culinary School. In December of 1984, NATTS sent out a special site team visit. That site team visit noted 26 serious problems. The end result was a recommendation that the accreditation should be removed by NATTS for the Culinary School.

Unfortunately, it would take——

Senator **Nunn**. Who made that recommendation?

Mr. **Sopko**. Well, originally, it went up to the NATTS Accrediting Commission, through their process; but the site visit found 26 concerns or serious problems that led to that decision.

It would take 13 additional months for NATTS to eventually remove the school's accreditation.

In summary, Senator, in December of 1984 the problems were noted by the NATTS site team. It wasn't until March of 1987 that the accreditation is lifted for the Culinary School.

Senator NUNN. Why the time gap? What caused that?

Mr. SOPKO. Apparently, numerous appeals, delays, and procedural due process granted by NATTS. I believe the NATTS officials will testify about that. Essentially they had to do two site visits, two appeals of the denial or the decision to revoke the accreditation in this whole process. Throughout their existence you will also see a history of delay by the Culinary School. It keeps asking for delays and postponements, which in this case they were able to stretch this thing out for approximately 2 years.

Senator NUNN. Haven't we got to find some way legislatively or in the regulatory sense to accelerate this whole process? It seems to me that people out there trying to do an honest job of accrediting would lose any kind of incentive when it takes this long to get any results.

Mr. SOPKO. That's correct, Senator, and I think those are some of the recommendations you will hear from the accrediting bodies, that they would like to be removed from the threat of legal action, which is really what I think is stopping them from moving more quickly—at least in some of these cases.

Now, at the same time, of course, the Department of Education has the authority to move a lot quicker, and they have emergency authority in some cases to take these schools out of the Title IV program but they don't appear to be doing that, either. Particularly in the Culinary School case, the Department of Education was aware of a lot of these allegations but didn't do anything.

Senator ROTH. Let me ask you this question, going back again to the number of people. What concerns me is that we have locked in so many due process procedures, some of which are obviously necessary, but haven't we made it almost impossible to act?

Mr. SOPKO. Well, Senator, again, concerning the accrediting bodies, I think they are the best people to answer that question about the due process. Concerning the staffing and the number of people, what I was referring to—and I may be misinterpreting your question, Senator—but the DC licensing people, the Virginia licensing people, and all the State officials tell us that they just don't have enough people to send out there to do site visits. Site visits are a key——

Senator ROTH. But you told us they did site visits.

Mr. SOPKO. Yes, they did in this case.

Senator ROTH. So there was no lack of people for this particular investigation, as I understand you.

Mr. SOPKO. Let's say there was no lack of evidence, let's say, that there was a problem in this case.

Senator ROTH. I guess just listening to you, it seems to me that the problem is that they had the site investigation, but for some reason, no action was taken.

Mr. SOPKO. That's correct, Senator, that is correct. In this case, all of the bodies had information that this school was bad. And in every instance, it took a long time for something to be done. Eventually, what was done was that the school went out of business.

Then—it is amazing—once the school went out of business, everyone begins to yank accreditation, or yank the license. But, the school is essentially out of business by that time.

Senator, the staff also discovered that almost from the start of the tortuous NATTS de-accreditation process, the school hedged its bets by obtaining accreditation from ACCET. ACCET granted accreditation on July 18, 1985, after a June 28th site visit directed by ACCET vice president Debbie De Vries, who just testified a few moments ago.

That site visit ironically gave the school a totally clean bill of health. The contrast between ACCET's glowing site report has got to stand out in contrast to other events. We have a December 1984 NATTS site visit which finds horrible conditions; a December 1984 DC site visit that finds horrible conditions; the NATTS site visit is reaffirmed by the NATTS Accrediting Board, and the appeal process over this 2 year period also finds problems with the Culinary School. In addition, the Veterans Administration during this same time frame is also finding problems with this school. Nevertheless, ACCET comes in, does a site visit and grants accreditation, claiming that the school meets their standards as a good school for accreditation.

Senator Nunn. In other words, a school can just shop between one accrediting body and another?

Mr. Sopko. That's exactly what this school did, Senator. We have notations, phone logs from ACCET, that on the date, May 10, 1985, when Dr. James Gray, an Academic Consultant to the Culinary School, called ACCET, he appears to have alerted ACCET that they had a NATTS accreditation, and were "looking for double accreditation". In response to the question why is the organization seeking accreditation, it is noted in somebody's handwriting at ACCET—we don't know whose " in case the other to change."

It appears then, that the school even told ACCET that they were going to lose their accreditation at NATTS. Nevertheless, it didn't appear to bother ACCET at all, they still granted accreditation.

The Subcommittee found and concluded that there were clearly other problems including communications and cooperation. This fact pattern raises a question concerning the adequacy of communication between ACCET and NATTS; ACCET, NATTS and the Veterans Administration; and ACCET, NATTS and the Department of Education.

It appears, as I said, that ACCET did know. Why they didn't go any further to inquire into some of the other problems, we don't know.

It also appears that NATTS knew that ACCET was going to accredit this institution, but it doesn't appear that NATTS advised ACCET of this problem at all.

Senator, an additional problem that was raised yesterday that is indicative by the Culinary School's action is the problem of unregulated branching and site visits. This school had numerous branches; none of them were ever visited by ACCET, even though that's where all the problems arose and ACCET had hundreds of complaints concerning those branches.

Senator **Nunn**. We had testimony this morning that the branching problem has now been solved. Is that consistent with what you are talking about?

Mr. **Sopko**. Well, Senator, this school closed in 1990. They were opening up branches right up to the day they closed. As a matter of fact this school closed because they opened up a branch in Richmond and started teaching there after they got accreditation but before they were licensed. So this problem would appear to still exist.

That Richmond campus was not visited by ACCET, nor were the other campuses that the school opened in 1989 visited by ACCET. There was no site visit by the accrediting body.

Senator **Nunn**. So you would fundamentally disagree with the testimony that said the branching problem has now been curbed or cured?

Mr. **Sopko**. Well, I would, unless it has been fixed since this hearing started.

Senator, briefly I would like to turn to the last leg of the triad, that is the Department of Education. It is quite clear when you review the chronologies and the evidence that almost from the start, the Department was aware that there were problems, serious problems, with the Culinary School.

Just a few points on that. The first review done by the Department of Education in January of 1983—this is a few months after they obtained approval to submit applications for Title IV—finds problems, serious problems, with the school—serious problems that would lead one to believe that these people were not legitimate educators.

The site team found that the school was operating at ineligible locations; had not prepared proper financial aid material; made misstatements; and, incorrectly calculated Pell Grant awards.

A 1988 audit by the Department of Education Inspector General noted a similar pattern for the period of 1982 through 1985. It turns out that the Culinary School's first outside independent audit was submitted to the department 19 months late; the second one was submitted 5 months late.

In 1986, this audit noted that the Culinary School did not have written policies and procedures for administering the program, nor was there anyone at the Culinary School who could explain what if any internal controls were being used.

It concludes by saying: "Based on the results of our review, it is our opinion"—and I am quoting the Department of Education in their 1988 audit report—"that Culinary School management was fully aware of its noncompliance, but failed to properly administer the program."

The staff believes this report raises a number of serious problems. First and foremost, is the finding by the Department of management problems at Culinary that apparently had not improved since 1983.

Senator **Nunn**. Is this the IG report or the department report?

Mr. **Sopko**. This is the Department of Education IG audit, Senator.

If by July of 1986, the end of the onsite audit review, "there still were no policies and procedures, nor any person who could explain the school's policies and procedures," one wonders when, if ever, there would be such policies and procedures.

Additionally, Senator, there is another serious question raised. This 1988 IG audit report was initially prepared during 1986, issued in draft form in 1987. Thus it took 2 years for the Inspector General to issue his final report in February of 1988, which documented problems that occurred 3 to 6 years before, from 1982 to 1985. Clearly, such serious problems should have produced a faster response by the Inspector General and the Department, especially since the report highlighted such problems, including default rates, leading up to 71 percent in 1984.

Unfortunately, even after all of these audits were issued, the school continued to operate and did operate, obtaining Title IV funding, until the date it closed.

Senator NUNN. How much money did the Government lose in this case, do you know?

Mr. SOPKO. Senator, that's difficult to answer. Millions, is all we can probably say at this time. The records are still not finalized. HEAF estimated a few million dollars.

There are also 300 students, I should say, who must repay loans even though they were owed a refund by the school, and HEAF found that they were owed a refund, in 1986. So you have 300 students out there who are still liable for loans even after they left school and the school was told to make repayments to them.

Senator NUNN. So the school owes them money, but the school is bankrupt.

Mr. SOPKO. Yes, bankrupt. It has been discharged from bankruptcy.

Senator NUNN. And the students owe HEAF money, and they have got to pay it.

Mr. SOPKO. That's correct, Senator—even though HEAF told the school, "You were supposed to make refunds, and you didn't." The student gets screwed in this case.

Senator ROTH. How much is owed HEAF?

Mr. SOPKO. I could find that amount, Senator. I don't have that with me, Let me add that the staff just looked at HEAF, Senator. There are other guarantee agencies where probably the same problem exists.

Senator NUNN. So you could be talking about many millions of dollars.

Mr. SOPKO. That's correct, Senator.

Senator NUNN. Are there any assets of the individuals who own the school that you know anything about? Have you gotten into that phase? Do they have assets?

Mr. SOPKO. We have not looked at their assets, Senator, although the Inspector General did report in its 1990 Inspection Report that the president and his wife paid each other a bonus of I believe it was $180,000 in 1989, just before they declared bankruptcy. But as far as I know, the school was discharged from bankruptcy because they had no assets. The Kibarians are scot-free as far as I know, and the school is now defunct—well, I will correct that—we think the school is defunct. We have just recently uncovered correspondence that would indicate that as of last week Mr. Kibarian is attempting to open it again but now with a new name. It is called

"Culinary School of Washington, London, Rome, Paris and Beijing." [See Exhibit No. 63.] I will refer to that in just a few moments, Senator.

Senator ROTH. Who opened that school?

Mr. SOPKO. Well, Senator, I will refer to that exhibit right now.

This Exhibit, marked as Exhibit No. 63, is a letter we know that Dr. Kibarian wrote. He is now listed as the Chairman of the Board, but we don't know which Board, and we don't know who else is on the Board—but he is sending this letter to most of the schools in the Virginia-Maryland-Washington area. In it, he is soliciting to set up a new culinary school, that will be, as he states, "financially painless for you to start because we do all the work, and the tuition is in your hands before students start the program."

He further states, "the purpose of this agreement"—and let me just note, Senator, he is sending a prospectus that is already pre-signed and dated September 3, 1990, and he is sending this to all the schools—one official told us it is probably across the United States, but we have only documented Virginia, Maryland and DC.

Again, in this letter he states, "The purpose of this agreement is to create a chef's program for you that meets the standards of academic excellence and is financially sound."

It is a bit ironic that though he talks about how great a culinary expert he is, you will notice that he talks about an Italian dish on the front line called "Tirami Su" and I was told that it is misspelled. I believe he also refers to "Henkel knives" which are supposed to be a famous knife set, and that also is misspelled.

Again, returning to this letter, he states that "the class of 25 students, based on a tuition charge of $6,000 to $8,000, will generate $150,000 to $200,000 per class."

Returning to your question, Senator—and this is what we were going to comment on—in response, this is pretty indicative of education as big business. Except for the first three words, he never again refers to education in this 5- or 6-page document.

We do know that starting in June or July—this is after the school was declared bankrupt, after the IG issued that critical inspection report, after ACCET pulls its license, and everyone else does what they do to the school—Mr. Kibarian began his first mass mailing. In this mailing, which is dated July 6, 1990 [See Exhibit No. 64.] he sends a document with a colorful brochure, "Learn to be a Chef, Culinary School of Washington, July 1989." [See Exhibit No. 108.] He attaches that, and he also states that, "I have initiated and operated a chefs' training school for the past 12 years here in Washington. As of August 1989 we had as many as 600 students, with revenues exceeding $6 million."

He says, "Such a program can be an important source of revenue to you. I can assure you a minimum of $500,000 net profit for the first year and $1 million for the second." He then he describes in great detail how you can make that $1 million.

What is interesting in both of these letters is that there appear to be some fraudulent statements, to say the least. In the first letter [See Exhibit No. 64.] he claims to be somehow affiliated with Georgetown University. We found out that he has had no affiliation with Georgetown University since 1967. [See Exhibit No. 70.]

In the second letter [See Exhibit No. 63.] he makes reference to a Dr. Osborne of the Library of Congress, implying that Dr. Osborne is a member of this Board of Directors and is also assuring to its quality. Since then, Mr. Webster went out and talked to Dr. Osborne, and he was a bit surprised that he was still on a board of directors that he thought was defunct. He also states for the record in the affidavit which we will make an exhibit [See Exhibit No. 59.] that, "I have never authorized the use of my name or professional position by Dr. Kibarian in any way other than that stated above," and that is when he was on the board of directors in 1980. "I am not willing for my name to be used by Dr. Kibarian in connection with the Culinary School, and my position on the board of directors or as a member of the faculty was never discussed with anyone until 10 September 1990, with the Subcommittee staff."

He goes on to state, "I do not know Dr. Kibarian's motives. I do know, however, that the use of my name, title, and professional position was a clear misrepresentation by Dr. Kibarian. It is a misrepresentation for Dr. Kibarian to imply in his letters that I am now associated with the Culinary School of Washington."

Senator NUNN. Are there any criminal investigations pending on this matter?

Mr. SOPKO. We have no indication that there are any criminal investigations. Our understanding is that when the Inspector General closed the case in 1988, that was the end of all criminal matters.

Senator NUNN. Was there ever a Justice Department investigation or an FBI investigation?

Mr. SOPKO. The FBI also investigated this school, and they closed it also. Senator, along that line on closing cases, can I just make reference again to the Inspector General's testimony of yesterday.

Contrary to his testimony yesterday, it appears that it was not on the recommendation of the assistant U.S. attorney or the Department of Justice that the Culinary case was closed. We have the report of investigation closure document right here, and it states that "after learning of the refunds, the assistant U.S. attorney, who had still not made a decision to either prosecute or decline, advised that criminal intent would be very difficult to prove. As a result "in September 1988, the assistant U.S. attorney was notified that 'we were closing our case'." And that is a document from the Inspector General's office dated October 3, 1988. [See Exhibit No. 65.]

Senator NUNN. How about civil suits? Are there civil suits pending?

Mr. WEBSTER. Senator, they could have addressed the allegations under the Program Fraud Civil Remedies Act, which they could have assessed up to treble damages.

Senator NUNN. Who is "they"?

Mr. WEBSTER. Department of Education.

Senator NUNN. There is civil recourse. Explain that a little bit. What is the statute? What does it allow?

Mr. WEBSTER. I can't explain the statute in depth, Senator, but I do know that there are civil remedies that they could have looked at that they apparently didn't. We found no evidence that they did.

Senator NUNN. "They" being the IG of Department of Education.

Mr. **Webster**. Yes, sir.

Senator **Roth**. If I might just make two comments, it seems very ironical to me that this man could be involved in these activities and still get a doctor's excuse from appearing before us—as I think you already brought out, Mr. Chairman.

Senator **Nunn**. We may very well call the doctor at some point. We want to give him an opportunity, though, to examine him more thoroughly. But your point is well made. We do intend to call him.

Senator **Roth**. The other point that deeply disturbs me is the inability of the IG, apparently, for whatever reason, to act effectively. These are the watchdogs, Mr. Chairman, that we established a few years ago to prevent this kind of situation. To me it is very distressing that the IG failed to act against these unscrupulous operators. The fact is that an entire scam can be completed before the Inspector General does anything. I think this is a serious problem, and we ought to look into it.

Mr. **Sopko**. Could I add one point to that, Senator? We just discovered—we got some more records 2 days ago from the Department of Education; they keep trickling in—and it indicates after closing the criminal case, I think the next action was a request to study it again. And I think the request was from the IG to another branch of Education to go back and take a look at it again.

So I don't know how many times you can investigate the case before you have to really do something, but that was the end result, that the Education Department is going to go back and take another look.

Senator **Nunn**. Did I hear that one of the reasons given for closing the case is because refunds were supposed to be made?

Mr. **Sopko**. That's correct, Senator. And in response to that—

Senator **Nunn**. Refunds to the students.

Mr. **Sopko**. No, Senator.

Senator **Nunn**. Refunds to the Government?

Mr. **Sopko**. Refunds to HEAF. The Higher Education Assistance Foundation disclosed that there was approximately $500,000 in refunds in 1986 that had not been made by the school. They were about ready to bar them from their program when they made a settlement agreement. The settlement agreement was that the school would make repayments every month.

The irony is, Senator, that that was in 1986 yet in 1987, 1988, and again in 1989, we found the HEAF reports complaining constantly that the school was not making repayments or continued to withhold repayments and generally creating greater refund problems. Nevertheless, it seems like the Inspector General's office and the U.S. attorney to some extent are using such a record of repayments as grounds for not indicting the Kibarians.

It is comparable, Senator, to a bank robber robbing a bank, getting caught by the FBI and saying, "Okay, FBI, I'll make repayments of the money I stole in lieu of you prosecuting me, and on top of that, I will rob other banks to repay you, and you will know for the next 3 years that I am robbing other banks to repay you, and, therefore, I am not prosecutable because I have no criminal intent." That is the best analogy I have of this situation, Senator, I may be in error—there may be other documents to show otherwise, but that is the type of logic that appears to have driven the decision not to go further with the criminal investigation.

Senators, in conclusion, the staff is aware that this committee looked at the problem of prosecuting schools and the federal student loan program in hearings held in 1975. We firmly believe that although no one has taken up Dr. Kibarian on his request, that if somebody does, we may be using the Culinary School again as our case study if we ever have to revisit this issue—which I hope we don't.

Thank you.

Senator NUNN. When you say nobody has taken up his request, what are you talking about?

Mr. SOPKO. Well, what I am saying, Senator, is that as far as we know, no other school owner has decided to go into partnership with the Culinary School of Washington and Beijing.

Senator NUNN. Where did the title come from, do you know? Is there any connection with—do they have any kind of foreign branches anywhere that you know anything about?

Mr. SOPKO. Senator, I don't know what waste treatment plant in Beijing they are going to use like they did here with the Blueplains waste treatment plant, but maybe they have a relationship. I don't know, Senator. There is nothing in these letters, other than it has got some nice, fancy Chinese script at the bottom, that shows there is any connection to these cities.

Senator NUNN. But they are supposed to be teaching that kind of cooking—is that the implication?

Mr. SOPKO. Well, I can't really tell. I mean, if you look in here, the only cooking they mention is learning how to cook pizzas and rum balls, which again, I am not a culinary expert, and I never alleged that I am, but somebody told me they don't know how to spell "Henkel" knives or "Tirami Su", which is some type of Italian dish.

Senator NUNN. Mark, do you have anything to add?

Mr. WEBSTER. No, sir, I don't.

Senator NUNN. Senator Roth?

Senator ROTH. Nothing, Mr. Chairman.

Senator NUNN. Thank you very much. We appreciate your good work.

Our next panel of witnesses consists of Dr. Robert E. Taylor, Chairman of the Accrediting Commission of the National Association of Trade and Technical Schools, known as NATTS, and Roger J. Williams, President of the Accrediting Council for Continuing Education and Training, known as ACCET.

These are two accrediting agencies which at one time or another accredited the Culinary School of Washington, and these accrediting agencies will provide an overview of the accreditation and the role their agencies play in general and in connection with the Culinary School.

Gentlemen, we appreciate you being here this morning, and we look forward to your testimony. I'll ask each of you, as we swear in all the witnesses before the Subcommittee, to please stand and raise your right hand and take the oath.

Do you swear the testimony you will give before the Subcommittee will be the truth, the whole truth and nothing but the truth, so help you, God?

Mr. **WILLIAMS**. I do.

Mr. **TAYLOR**. I do.

Senator **NUNN**. Thank you.

Mr. Williams, would you like to lead off this morning?

TESTIMONY OF ROGER J. WILLIAMS, ACTING PRESIDENT, ACCREDITING COUNCIL FOR CONTINUING EDUCATION AND TRAINING [ACCET][6]

Mr. **WILLIAMS**. Mr. Chairman, I am here representing ACCET, and I have been asked by Subcommittee staff to provide an overview of accreditation and the role it played in a particular case, the Culinary School of Washington, and what steps have or could be taken to avoid a recurrence of its long and painful demise.

I have, as indicated in my written statement presented to the staff earlier, worked over the last 15 years in a variety of professional capacities involved with education, and in fact have operated a trade school in downtown Washington, DC as well as having worked in a variety of capacities with the accrediting bodies.

I have been with ACCET for just over a year and a half, and since working out of the Washington office on government relations and policy development and have, since May 9th of this year been acting president of ACCET.

I sincerely believe that the accrediting agencies are an invaluable partner in the triad of quality assurance along with State and Federal agencies. While it can be argued that we have dragged our feet on implementing reforms to strengthen the accreditation process, there is no question in my mind that the past year has been a chastening experience for all but the dull-witted or those otherwise immune to moral outrage over such abuses.

Change never comes easily, and institutional change comes harder still.

In the current atmosphere, we are forced to defend and support the contributory role of private career schools, indeed accreditation itself, from a weakened position and on the wrong terms—namely, access to federally-guaranteed loans and grants instead of measurable quality criteria that meet our growing work force needs.

Too many schools have served as willing victims, using marketing and admissions techniques that are sometimes more clever than sophisticated and often superior to their educational delivery systems. Compounded by the problems of students who have poor learning skills, low self-esteem, counterproductive behavioral patterns and weak financial resources, the results are often seen in media portrayals of human tragedy, such as that depicted for the Culinary School of Washington, which brings me, of course, to the subject at hand: What happened, why did it happen, and what can and is being done to prevent it from happening again?

I offer the following review and a chronology of documented events that we can find in various memoranda and letters on the record since the time of initial application by the Culinary School of Washington in 1985. I might add as a side note that I did not have some of the information fact, or at least the staff to be able to review, the telephone records going back to that period of time, and so my chronology may be missing some of the other pieces.

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[6] See p. 380 for Mr. Williams' prepared statement.

At the risk of turning hindsight into insight, except for an initial finding by the on-site examination team during its June 1985 visit that "there is a strong need to improve documentation of financial practice and records, especially in the area of student loans and grants," a lack of followup and correspondence is perhaps the most telling thing.

The current structure and practice of the Accrediting Commission provides for a standing financial review committee to review all schools reported by the examination team to have weaknesses in any of the subsections on Standard III in ACCET standards under financial practices.

At the last commission meeting in August 1990, half the schools reviewed were referred to the financial review committee, and indeed half of those schools became either deferred or denied accreditation because of financial practices cited as an area of weakness.

While the OIG conducted an audit of the program for the period July 1982 to December 1985, producing a draft report in May 1987 and a final version in February 1988, recommending approximately $400,000 in refunds, we found no record of this report being disseminated to ACCET for review.

Similarly a HEAF report dated July 1988 cited serious problems in financial aid administration, but there is no record of a copy ever being forwarded to ACCET. In fairness, it should also be noted that until May of 1989, ACCET had no formal written policy dealing with adverse actions by other agencies. Indeed, the application in 1985 was a one-page document of two sides; the current application is approximately 19 pages in length.

A detailed, comprehensive revision to this policy in March of 1990 was approved by the ACCET Accrediting Commission to establish a formal review process for such actions, as indicated by the OIG and HEAF reports, when they are brought to our attention.

In May 1988, correspondence between the Eligibility branch and ACCET indicated concerns over auxiliary classrooms at a number of the school's restaurant externship locations. The ACCET response was that they were approved but not cited as such previously to the Department. There is no record of a followup review by ACCET except by letter to the school dated August 10th of 1988, indicating a series of general concerns related to complaints, changes in curricula, and management practices at the school.

In retrospect, this situation deserved a closer review, and certainly if any site were unapproved, a serious investigation and on-site visit would have been prompted.

Prior to May 1 of 1990, ACCET did not require a preliminary on-site visit for newly opened branches and auxiliary classrooms, relying on State approval and a 4-month followup visit. Since that date, an on-site visit is conducted by ACCET staff for all sites involved in Title IV prior to presenting a report to a subcommittee of the commission for final review and interim approval. A full team visit is then scheduled approximately 4 months after interim approval.

A number of recent cases of concern to the commission have indeed resulted in show-cause action against the main campus for failings discovered only at a branch. Additionally, the commission issued a call for comment in July of 1990, proposing to limit branches to a maximum of one per year.

During the spring and summer of 1989, a major surge in complaints from former students and staff of the Culinary School were received by ACCET. The complaint procedures prior to May of that year were unwritten, informal and unlogged. The record is to a large extent silent, beyond correspondence requesting clarification and resolution by Culinary School of Washington and the school's denials of such wrongdoing.

No definitive action can be found in the record until a show cause was issued on January 8, 1990 in response to negative publicity, student complaints and actions taken by Virginia and DC licensure agencies.

In April 1990, the commission approved a completely revamped complaint procedure. All complaints are logged, processed by a senior staff person, and presented to the commission.

On January 9, 1990 the Culinary School filed Chapter 11 bankruptcy and cancelled the scheduled January 11 visit by an ACCET examination team. ACCET met with counsel and DC Education Licensure officials to coordinate these efforts. The ELC agreed to revoke the license on January 31, but the bankruptcy court issued a temporary restraining order to enjoin the revocation of this license. On February 27, the ELC notified ACCET that the Culinary School of Washington had agreed to close with a teach-out agreement culminating in the school's closure by June 30, 1990.

Senator **Nunn**. What does that teach-out agreement mean?

Mr. **Williams**. It would have been a provision to teach out all of the current students there with other institutions offering some comparable education in the area, or providing refunds.

Senator **Nunn**. Do you know whether that is being carried out?

Mr. **Williams**. To the best of my knowledge, it was an agreement that had been worked out between the ELC and the school, and it was carried out. I do not know the details of it, though, no, sir.

Senator **Nunn**. Who is supposed to follow up on that?

Mr. **Williams**. Well, typically, the State licensure is the one who works it out. Accreditation often plays a role in it, but in this case I do not think we played any role.

Senator **Nunn**. So you are not responsible to follow it up, in your opinion?

Mr. **Williams**. I think we would be, yes.

Senator **Nunn**. You think you will be?

Mr. **Williams**. Yes. I know we will be, and I think we should be.

Senator **Nunn**. But you haven't done it yet.

Mr. **Williams**. No, sir.

This case begs an obvious question of closure: Can it happen again? Unfortunately, any answer but yes would have to be suspect until tested and scrutinized over a time frame sufficient to measure the impact of recent statutes passed in December 1989 in the Budget Reconciliation Act, the Department of Education's Default

Reduction Initiatives of June 5, 1989, and the various reforms instituted by ACCET and other accrediting agencies over the past year.

What can clearly be said with some measure of certainty is that there are far more remedies in place than there are analyses of their combined impact on postsecondary education, particularly shorter-term programs of less than a year. The fear now might be that the pendulum will swing too far, toward an adversarial relationship between the regulatory bodies represented in the triad, and we will have undermined the foundation of expertise and leadership necessary to support our mutual goal of improving schools.

I have four recommendations that I will put forth, the first being under the heading of role definition and communications, an area that I think is extremely important.

Many others, as well as I, believe that an overriding issue underlies the weakness in the system—a lack of clear role definition and communication linkages that keep us informed about essential information. The triad of quality assurance exists in a conceptual void.

The first step should be taken at the Department of Education by calling for a series of work sessions involving the accrediting agencies, State authorities, guarantee agencies and Federal representatives, focused on clarifying the respective roles and agreeing to specific information exchanges through memorandums of understanding or similar devices.

I would include the guarantee agencies because they serve a significant role that is both sufficiently ill-defined and important enough to make them a member of a revived triad-plus-one.

Each of us has an important role and some measure of overlapping responsibility that would better serve the public interest by clearly defining primary and secondary levels of responsibility and sharing related information.

A second item—the role of accreditation has changed, evolving from a traditional collegial model of interaction to one of a compliance office with an increasingly legalistic, albeit educationally focused, underpinning. We are ever more frequently sued over adverse actions of denial or withdrawal of accreditation, which in turn drains resources otherwise available to develop and improve the process.

Statutory protection or other assistance in such lawsuits resulting from the performance of our duties would greatly benefit the public interest. Increasingly schools seek the protection of the bankruptcy court such that accreditation and its supporting activities are at best in a grey area with fears of court citations and fines. A clear expression of congressional intent such that accreditation is exempted from this paralyzing situation would serve the process.

Third, when a school closes, students are often left at the door, with nowhere to go to complete their training or to obtain a refund. There needs to be a fund, perhaps paid into as an insurance fee per loan, collected from the school by the State guarantee agency. The fund could be administered by an ad hoc task force made up of representatives from the State accrediting and guarantee agencies.

Fourth, a central focus of any rational discussion on student defaults must also address the obvious shift over the past 10 years from grants to loans. At a time when budget deficits loom larger than life, no one expects the situation to change in the near term. However, it must change if we are to address the unbalanced burden of those with the fewest options and opportunities to build a future that serves both their and the Nation's needs.

Finally, I am left with the observation, long held, that accreditation is a major piece of a complex puzzle. If it didn't exist, I believe we would have to invent it to complete the picture. It must be administered at the highest level of integrity in service to the public interest as a true indicator of quality education and training. It has too often been assumed to be the all-encompassing gatekeeper when in fact it is part of a complex system that must interact purposefully and clearly for it to work properly. The glare of the spotlight by the media, the Department of Education and the Congress has focused our attention and painfully crystallized a sense of renewed urgency and commitment to making the process work effectively.

With that, I conclude my remarks.

Senator NUNN. Thank you, Mr. Williams. I have just a couple of questions, and I'll come back and ask both you and Mr. Taylor some questions after his testimony.

How large a jurisdiction is ACCET covering?

Mr. WILLIAMS. We currently have about 370 main campuses, a total of about 1,000, with branches and auxiliary classrooms.

Senator NUNN. About how many States do you cover?

Mr. WILLIAMS. All 50 States.

Senator NUNN. You cover everything.

Mr. WILLIAMS. Yes, sir.

Senator NUNN. About how many employees do you have?

Mr. WILLIAMS. We currently have 14 full-time employees, and we use about 6 part-time/temporary employees, some on a contract basis.

Senator NUNN. Fourteen?

Mr. WILLIAMS. Yes, sir.

Senator NUNN. And how many schools?

Mr. WILLIAMS. About 1,000, looking at all of the branches.

Senator NUNN. About 1,000. And all those pay you a fee?

Mr. WILLIAMS. Yes, sir, the sustaining fee as well as fees that are encumbered during visits.

Senator NUNN. Is your organization a profitmaking organization?

Mr. WILLIAMS. No, sir. It is a 501(c)(3).

Senator NUNN. Is that the case of most accrediting agencies?

Mr. WILLIAMS. I don't believe so. I think most of them are nonprofits. I don't know that all of them are 501(c)(3)s.

Senator NUNN. So yours is really a charitable nonprofit?

Mr. WILLIAMS. Yes, sir.

Senator NUNN. You've got 14 people plus 6 part-time, and you've got 1000 schools; that would be 50 schools per employee counting part-time, wouldn't it?

Mr. WILLIAMS. It is a hefty chunk.

Senator **Nunn**. Are you staffed—is that almost by definition impossible to do the job with basically 50 schools per employee, counting part-time?

Mr. **Williams**. I think if you went back to around 1987, there were still only four full-time employees. There was a large growth in the staff around 1987–88. If schools were coming up all the time, if we had all bad schools, there would be no way. The process is built on periodic reviews. Schools receive anywhere between one year and 5 years of accreditation, and so it is built in with sort of an ongoing periodic review. There is no question that we could use more staff. I think that is probably true of every agency that exists.

Senator **Nunn**. It is very difficult to get around and review once an accreditation takes place; from that point on, it is hard to go back and review unless something really comes up on the board with a red light, right?

Mr. **Williams**. It is, sir. I think that is probably what emphasizes the importance in fact of communication with the States and the Federal Government and the guarantee agencies because it greatly expands the network that would allow us to have the information to be able to make good decisions.

Senator **Nunn**. How long have you been onboard?

Mr. **Williams**. A year and a half.

Senator **Nunn**. Have you had decertifications during that time?

Mr. **Williams**. Yes, sir. At the last commission meeting in August, we reviewed approximately 60 schools that were coming up either for initial or re-accreditation, and I believe we had 11 denials and 14 deferrals of accreditation out of that pool.

Senator **Nunn**. Thank you.

Mr. Taylor?

TESTIMONY OF ROBERT TAYLOR, CHAIRMAN, ACCREDITING COMMISSION, NATIONAL ASSOCIATION OF TRADE AND TECHNICAL SCHOOLS [7]

Mr. **Taylor**. Chairman Nunn, I want to thank you for the opportunity of being here and addressing issues of accreditation as it relates to NATTS.

Since 1987, I have been a public member of the Accreditation Commission and since June of this year, served as its chair.

The testimony filed with the Committee, which I assume will be committed to the record——

Senator **Nunn**. It will; your entire statement will be part of the record, as will Mr. Williams', without objection.

Mr. **Taylor** [continuing]. Lists some of my background, extending over 40 years in the public sector of vocational and technical education.

I think it important to distinguish NATTS as a trade association that serves its members from its independent and autonomous accrediting body. We enjoy autonomy of action, budget, supervision of our staff, and seek to function as a reliable authority on the quality of training offered by NATTS schools.

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[7] See p. 392 for Mr. Taylor's prepared statement.

The NATTS bylaws, for example, say that our actions shall not be subject to review of the board of directors, and that in fact is as it works. While the board appoints the members of the commission, only the commission itself may remove members, and we have four, I would say, distinguished public members. Dick Doolittle, for example, is executive director of the Graduate School of Banking at the University of Wisconsin. Mr. Ditto has just retired as the administrative vice president of the Houston Community College System And Francis Carter is executive director of the Chester Educational Foundation in Pennsylvania and a former vocational school director.

Senator **Nunn**. Now, are they a full-time or part-time advisory group?

Mr. **Taylor**. We function as regular members of the commission. The commission meets three times a year for a full week. We are on call through conference calls. We have an executive committee which functions in the interim, and then we have an additional retreat to look in depth at our processes and procedures.

Additionally——

Senator **Nunn**. How many full-time employees do you have?

Mr. **Taylor**. About 21. I'd want to correct that, but that is the approximate number.

Senator **Nunn**. Does that include secretarial?

Mr. **Taylor**. Yes.

Senator **Nunn**. How many people do you have actually involved in directly examining schools?

Mr. **Taylor**. Probably 16 to 17.

Senator **Nunn**. And how many schools do you have?

Mr. **Taylor**. Twelve hundred.

Senator **Nunn**. Sixteen to 17, with 1,200 schools.

Mr. **Taylor**. Yes. But let me make the point that our regular and permanent staff are supplemented by the commission; that commissioners give about 6 to 8 weeks a year to commission activities; they are the ones who read the school files, discuss them and make the decision in full commission meeting; and additionally, we are supplemented by visiting teams that draw on members of industry, faculty members in universities, and representatives from the industry itself.

Senator **Nunn**. Could you explain how that works? The visiting teams are separate and apart from those 16 employees?

Mr. **Taylor**. Yes, they are—although a staff member does accompany each team. A team visit is typically 2 days. It involves prior reading of the self-evaluation study of the school. Staff members have made calls to employers of graduates in the area; a 10 percent sample of the last three classes to see if they are placed and what employer satisfaction is with respect to those graduates. We always invite a representative of the State licensing agency to participate in the team visit, and while there, we will look at the facilities, the equipment, look at the curriculum, look at placement rates, do a random check of files and refund schedules, and an interview of students that is conducted without members of the school staff present.

Senator **Nunn**. Is that based on people trying to get accredited, or people already accredited on a regular review?

Mr. TAYLOR. The cycle is the same both ways. In other words, the same standards apply.

Senator NUNN. How many team visits, for instance, would you have had last year?

Mr. TAYLOR. Probably in the neighborhood of 400. In other words, we typically deal with about 100–130 schools at each of the three Commission meetings—400 may be slightly high. But we have additional commission-directed visits. For example, if we get complaints—and let me also say that another part of this team visit is to contact the Better Business Bureau, and contact the State agency for information. We are now publishing in the local paper that a school is up for accreditation and inviting comments, and at every commission meeting we hear reports from the Federal Trade Commission, the U.S. Post Office, the Better Business Bureau and State agencies with respect to complaints. That is an ongoing process of our commission.

Senator NUNN. Four hundred visits, and each visit takes a couple of days each? How do you have the staff time to do that? I don't understand how the arithmetic works. You've got a staff member on each visit.

Mr. TAYLOR. Well, we have some staff that essentially are on school visits almost full-time. That is called the traveling staff.

Senator NUNN. Could you furnish for a record a list of the schools you visited last year, just one year?

Mr. TAYLOR. We can do that; we'll be glad to do that, yes. And of course, we publish lists of schools that have been reviewed and the commission's action. That goes out in the house organ to all school members.

Senator NUNN. Okay. Go ahead.

Mr. TAYLOR. Then, carrying on, just let me say that our fundamental concern as an accrediting agency is the matter of educational excellence and institutional integrity. We do not believe it is our role to enforce financial aid, and we do not engage in political or lobbying activities. I appear today at your invitation.

I have submitted 2½ pages of chronology and information on our commission's actions with respect to the Culinary School, and in light of staff requests to reduce time, I will not comment on that except to summarize by saying that Oliver Wendell Holmes said years ago that "No generalization is worth a damn, including this one." And I would urge that this Committee be very careful about stereotypes and generalizations with respect to accreditation. Each commission functions differently, has its own set of standards and procedures.

For example, the comment was made by staff about the length of due process, and it was extensive, and I will speak to that in a moment. For example, with another school of interest to this commission, the Detroit Engineering Institute, quite recently we ran the same cycle in 6 months. So we are talking about the difference between what was several years ago and what the process is now.

For example, there is talk about "accreditation-jumping". In 1989 there was a Federal law passed to stop "accreditation-jumping" so what we are talking about is now against Federal law, and no accreditation can be transferred or re-established within 24 months unless it has been re-established with the original commission or has the permission of the Secretary of Education.

Senator **Nunn**. I guess the question is whether you can enforce that law. It depends on the relationship between the accrediting bodies and whether there is an exchange of information and a free flow of information. It is one thing to have a law, but we have seen all over the place how those can be disregarded, broken, and so forth.

So the question is can you enforce that. Can you?

Mr. **Taylor**. Well——

Senator **Nunn**. Do you have dialogue with——

Mr. **Taylor**. The enforcement is with the Department of Education. It is the Federal law. And let me say that we——

Senator **Nunn**. I understand that, but if you don't know about the other agency doing the accrediting, and you don't have a dialogue or any kind of centralized source of information on that by definition, it is not going to happen.

Mr. **Taylor**. Again, let me say that the current obligations of our accreditation process call for the school coming up for accreditation to advise us if they hold or are seeking other accreditation. It is now obligatory on the school to report to us.

I will acknowledge that the cycle on the Washington Culinary School took long, but it went through a number of appeals. I would point out that schools file lawsuits, and since 1988, our commission has engaged in 10 lawsuits in our attempt to revoke accreditation. The courts have held that we must follow our own procedures, and this obligates us to allow schools to respond to the adverse action that may be taken and that these processes are required by the Department of Education's regulations.

Additionally, let me say that this cycle on the Washington school occurred when the nature and purpose of accreditation was shifting; that the issue of encouraging institutions in self-improvement was the original and still a strong continuing purpose. But rather than acting as regulators, accrediting commissions seek to assist schools in being better.

Since that time, we have taken a more aggressive posture with respect to oversight and monitoring, and as I point out in the Detroit school, we were able to act within 6 months.

Let me just highlight two or three measures that we have taken to strengthen our ability to deal with schools that fail to meet standards.

We have developed a concept of a rapid response team, and when we see an alarm bell or a problem, we can assemble a team within days and be out there; and we have done that eight times in the last year to 18 months, resulting in five schools ultimately being removed from accreditation.

We have strengthened our reporting system. We now require stronger financial and annual reports.

Another point that I would make is that we have initiated accreditation workshops. Anyone applying or seeking renewal of accreditation is required, as a condition, to attend a 2-day workshop, and this does result in considerable self-selection. For example, of 193 applicant schools who attended accreditation workshops, only

70 have actually applied, so we have an initial sifting taking place as a result of that.

We have revised and strengthened our appeals process to eliminate the possibility that schools can provide new evidence to the appeals panel that were not available to the commission at the time. This has accelerated our appeals process and has given us the ability to streamline and expedite it.

We have also amended our standards of accreditation with respect to recruitment practices. The branch recommendations given by staff yesterday are now in place as standards of this Commission. So we agree with that.

Our refund policy has been liberalized, and I would say is more liberal than public institutions. A school may not retain tuition for the program until a student completes 75 percent, and in States where a State regulation may be more liberal to the student, we concede to the State on that situation.

Let me just conclude by saying that the Federal policy structure recognizes the triad; we subscribe to it. We agree with the IG and other witnesses yesterday who have said that the roles and relationships within that triad need to be clarified and strengthened.

I do believe that the accrediting process can and does work, and I will remind the Committee that the overwhelming majority of students who attend NATTS schools complete and get jobs, and that is what it is about.

Several recommendations to this Committee. One, as other witnesses have identified, we need immunity for personal actions by members of the commission. The NATTS association carries a judgment liability policy on commissioners with respect to suit. We are frequently named in suits, and that is a worry, and that is a cost that could be used for oversight and alternate uses.

Bankruptcy has been mentioned. We are in our 18th month in trying to close out a school that we believe should have its accreditation revoked. We are bearing the legal expense, and we are now at the court of appeals, trying to establish that bankruptcy cannot be a "safe harbor" in the removal of accreditation.

I have also spoken to the issue of clarifying and strengthening the triad.

Let me just say that I think it works. As a public member, we represent the public interest in the issue of accreditation, and I appreciate the opportunity to be here and will be pleased to respond to questions.

Senator **NUNN**. Thank you, Mr. Taylor and Mr. Williams.

Just on this one point about dual accreditation, let's assume the Culinary School of Washington goes, Mr. Williams, to your organization—let's assume this—and let's assume you turn them down; you say you are not accredited. Is there anything that feeds up to the Secretary of Education saying that you looked at this school and turned them down?

Mr. **WILLIAMS**. Turned them down at the application stage or at the actual accreditation stage?

Senator **NUNN**. Well, either.

Mr. **WILLIAMS**. At the application stage, there would be nothing; at the accreditation stage, if it were denied accreditation, a letter would go to the Secretary of Education, actually, to the Eligibility Branch, indicating that they had had their accreditation denied.

Senator **NUNN**. Why would you turn them down at the application stage?

Mr. **WILLIAMS**. They may not fit into the scope; we may have discovered from another agency, as we occasionally do, even when they are accredited, but they are in the appeal process, and we write a letter back to the school saying we understand this is the case, and they either withdraw or we put them onto a review process.

Senator **NUNN**. Okay. Mr. Taylor, when the same school comes to you—let's say they have been turned down at the accreditation stage by Mr. Williams' group—would you check with the Department of Education to see if there had been a turn-down of this school?

Mr. **TAYLOR**. We automatically check with other accrediting associations——

Senator **NUNN**. You check with Mr. Williams?

Mr. **TAYLOR**. Yes. That is now an automatic procedure.

Senator **NUNN**. When was that put into effect?

Mr. **TAYLOR**. I'd have to check the record; it has been in effect for some time.

Mr. **WILLIAMS**. Within the last year, probably.

Senator **NUNN**. When, Mr. Williams?

Mr. **WILLIAMS**. I think in the last year, from what I have seen on the record, much more of this has been going on.

Senator **NUNN**. So you do have a cross-check with each other, then.

Mr. **TAYLOR**. Yes.

Senator **NUNN**. And you feed it up to the Secretary of Education in the event you turn one down at the accreditation stage.

Mr. **WILLIAMS**. Yes, sir.

Senator **NUNN**. Why couldn't you do that at the application stage, too?

Mr. **WILLIAMS**. We may never have thought of it, or it may be that it isn't a particularly relevant point. Some decisions, it would be based on the fact that a school simply does not have the resources in initial review, or that it really doesn't meet the scope for accreditation. So there are other factors, but it certainly could be done.

Mr. **TAYLOR**. I'd like to point out again that our accreditation process obligates the school to identify any other accreditation that they hold.

And Senator, if I could just clarify "the new law" that I was speaking of that prohibits accreditation-jumping—I misspoke slightly. The new law passed last fall regarding dual accreditation does not prohibit dual accreditation, but it does prohibit the Department of Education for 24 months from granting Federal aid eligibility to an institution that has lost accreditation or had it suspended, or withdrawn from accreditation while it was subject to a show-cause or negative action by another accrediting body.

So there does exist a central point, the Department of Education, for stopping Federal eligibility as a result of accreditation-jumping actions.

Senator LEVIN. Would you yield just on that one point, Mr. Chairman?

Senator NUNN. Certainly, certainly.

Senator LEVIN. You indicated, Mr. Taylor, that they must indicate other accreditation, but in response to the Chairman's question, I think it was, would they have to let you know on an application or a request for accreditation that their prior application to another organization had been denied, or that they had been denied accreditation? I think that was the point that the Chairman was leading to.

Mr. TAYLOR. I will have to get back to you on that. We are now monitoring accreditation actions of other commissions, because we publish ours, and they are a matter of record.

Senator LEVIN. Does the applicant have to represent to you that an application had not been filed, or rejected by another organization, or that accreditation had been denied? That's the specific question.

Mr. TAYLOR. I understand the question, and I will have to check on that and get back to you. If it does not, I am going to try to get it in the application. I think it makes sense.

Mr. WILLIAMS. If I may on behalf of ACCET, it is in the application, an explicit question to that effect, and a statement that loss of accreditation from another agency is grounds for not being considered for application.

Senator LEVIN. What kind of "loss" are we talking about—denial in the first instance?

Mr. WILLIAMS. Denial of it, that's correct.

Senator LEVIN. Or rejection of the application, for whatever reason.

Mr. WILLIAMS. Yes, sir. In fact, there is even an additional policy of ACCET that has only been created since, I believe, April of this year, calling for any action by another Federal agency, a State agency or another accrediting agency, even from the media.

Senator LEVIN. Thank you, Mr. Chairman.

Senator NUNN. Thank you, Senator Levin.

Let me ask you both a couple of questions on the Culinary School. You have heard the staff statement, Dr. Taylor, this morning referring to allegations of embezzlement by Dr. Kibarian from the Southeastern University to Mrs. Kibarian as president of the Culinary School. Did NATTS know anything about this?

Mr. TAYLOR. To my knowledge, no. I will doublecheck, and if there is variance on that I will get back to you.

Senator NUNN. Do you know if your staff saw the Washington Post stories in 1983 and 1985 about this?

Mr. TAYLOR. Well, again, I cannot answer that because we had a new staff director in about 1986, and I joined the commission in 1987. But I will tell you now that we monitor clippings, and seek Better Business Bureau recommendations with respect to potential accreditation action.

Senator NUNN. Mr. Williams, the same question. Did ACCET know about these allegations?

Mr. WILLIAMS. Not that I know of, sir. In fact the record, as I indicated in my testimony, is pretty skimpy.

Senator **Nunn**. You were not satisfied obviously, by your statement, with the review you made; it seemed to me your statement was basically saying that your organization didn't do a lot of things you thought it should have done in this case. Is that accurate?

Mr. **Williams**. Yes, sir, that is accurate. I think there are two factors. One is not having access probably to some of the information, and secondly, not being as rigorous in response to it.

I think there have been a number of policy and procedural changes since that time, as well as without any question in my mind, an increased sense of rigor on behalf of the Accrediting Commission and the board of trustees in seeing that this never happens again.

Senator **Nunn**. Dr. Taylor, what were the problems that your site review uncovered about the Culinary School in 1984? Weren't there about 26 problems that you identified?

Mr. **Taylor**. That is the staff testimony. I cannot tell you specifically what those areas were. I'll try to——

Senator **Nunn**. Do you have that in your file somewhere? Do you have a record on it?

Mr. **Taylor**. If we have it, it has been submitted to the staff.

Senator **Nunn**. Do you know what was done after those 26 problems were found?

Mr. **Taylor**. Well, we essentially tried to move toward revoking accreditation, and obviously were caught up in some of the due process steps. And I will remind you again that that was at a time when accreditation philosophy was transitioning, and it was also a time when the NATTS Accrediting Commission's philosophy with respect to legal action was transitioning.

Senator **Nunn**. Can you tell us why in this case it took so long in general, and can you tell us what you think can be done to accelerate the process? You mentioned you have already accelerated it. What did you do to move the time frame from 2 or 3 years down to 6 months in the case of the Detroit school?

Mr. **Taylor**. Well, essentially, the things we have done are to move more rapidly with respect to the cycling of school actions; that the time that it takes to move from a self-evaluation study to a team visit to a commission review and action is shortened; that we have tightened our appeals procedure so that we do not permit the appeals panel to hear new evidence that was not available at the time. They are restricted to the evidence that the commission had before it. This has encouraged the schools to do a better job of getting their files up-to-date and so on.

Third is the willingness to go to the mat with litigation when that is the ultimate action on the part of the school.

Senator **Nunn**. In other words, you are not letting the threat of a lawsuit frighten you off.

Mr. **Taylor**. That is correct.

Senator **Nunn**. Do you think in the past that has been the case—if somebody threatened a lawsuit, you more or less backed off, or felt the urge to back off?

Mr. **Taylor**. I was not there, and I cannot answer that——

Senator **Nunn**. But is that the basic——

Mr. **Taylor** [continuing]. But I will say that the record does not show the number of litigations earlier that we have now. And I point out that we have had 10, I think, since 1988; the bankruptcy thing extending over 18 months, and we are at the Federal court of appeals.

Senator **NUNN**. Mr. Williams, have you found that when the threat of a lawsuit came up that there was a backing off in the past?

Mr. **WILLIAMS**. I can say over the last 4 months, Senator, that we have had so much activity in that regard I have considered putting a drop box at the front door for summonses and warrants. There is no question that it is a serious problem for agencies. I can say without hesitation that we have not flinched, and we have a number of suits against us right now, one of which you will probably hear a commentary on this afternoon in the State of Florida, where a judge actually came back and ordered me to provide provisional accreditation to a school that I had withdrawn accreditation from.

Senator **NUNN**. But your feeling now is that in order to do your job, you cannot back off because of lawsuits?

Mr. **WILLIAMS**. No, sir, absolutely not.

Senator **NUNN**. Is that your feeling, Mr. Taylor?

Mr. **TAYLOR**. Yes, it is. But we do need immunity protection of commission members acting appropriately in their role as commissioners.

Senator **NUNN**. Is there precedent for that in the Federal law, do you know?

Mr. **TAYLOR**. I cannot answer that. I'll check with staff and perhaps we can——

Senator **NUNN**. We'll have staff look at it. I do not know what the precedent would be on that.

You are spending a lot of money on premiums for insurance to protect your commission?

Mr. **TAYLOR**. We have a substantial policy.

Senator **NUNN**. What does that cost you per year, do you know?

Mr. **TAYLOR**. I'll get that and get back to you.

Senator **LEVIN**. Mr. Chairman, can I ask a question about the Detroit school that you raised?

Senator **NUNN**. Certainly.

Senator **LEVIN**. There was a gap of 5 or 6 years between the accreditation visits to that school, from 1982 to 1988, I believe.

Mr. **TAYLOR**. The Culinary School?

Senator **LEVIN**. No, the DEI, the Detroit school that you made reference to.

Mr. **TAYLOR**. Yes.

Senator **LEVIN**. Is that now changed, do you now make more frequent visits? Your visitors were shocked, they apparently were shocked when they arrived at that school, even though some investigators tell us that there were problems during that period. My specific question is are these accreditation visits or reaccreditation visits now more frequently than 5 years, and, if so, what is the period?

Mr. **TAYLOR**. The accreditation cycle is still 5 years, but there are several things that can happen in the 5-year interval. One is that the annual report may trigger a commission directed visit to examine some aspect of the operation, based on the annual report.

We are also monitoring, for example, the Yellow Pages with respect to school advertising. We are more aggressive with respect to input from the State agency. We also have, for example, interim reporting, where if a school's placement rate or completion rate or their finances, for example, invite inquiry, that we get regular reports which are automatically examined, and those may trigger visits. So, there is a great deal more interaction and oversight now than there was, say, prior to 1986.

Senator Levin. Mr. Chairman, I have a statement for the record that I would appreciate being put in the record. I also have some additional questions for the witnesses.

Senator Nunn. Certainly.

[Senator Levin's opening statement follows:]

Opening Statement of Senator Levin

We're going to hear some disturbing testimony today about how our system to safeguard hundreds of millions of dollars in student loan funds has failed—and failed miserably. It's clear that there's been a severe breakdown in communication among the various federal, state and private agencies which bear responsibility for accrediting and monitoring educational institutions which receive federal student loan aid funds. The Subcommittee's findings have already established that sad fact. The loss to the taxpayers has been enormous, and the drain is increasing.

What we need to focus our attention on now is how we're going to step up enforcement and oversight without unfairly hurting the majority of proprietary, trade and vocational schools around the nation which are providing an honest and much-needed educational service. The Subcommittee's investigation has revealed that a small percentage of mismanaged or even corrupt institutions has accounted for a huge percentage of the defaults in our student aid and loan packages.

This is a key point to keep in mind as we examine the disasterous situation the Subcommittee has uncovered. Michigan, for example, has approximately 300 proprietary and trade schools licensed to operate in the state. Of those, approximately 80, or a little more than a quarter, are accredited by one or more private educational organizations, two of which are represented here today. Like most other states, Michigan has experienced recent school closings and bankruptcies which have left students hoping to improve their lives with nothing but a debt to the federal government which often they cannot repay. Today we're going to look at whether these accrediting groups, upon which the federal Education Department and state agencies depend, have been doing their jobs to detect and prevent such tragedies.

At the same time, I've visited several successful proprietary and trade schools in Michigan in recent months, and the service they're providing, often to a largely disadvantaged segment of our society, cannot be overestimated. I hope to hear today from our expert witnesses about what can be done to reverse a tide of defaults arising from poor management, lax oversight—and perhaps most importantly—a lack of effective communication among the players in our student aid programs. Our young people need the educational opportunities this system can provide—our job is to make what we've got work better.

I want to thank Senator Nunn for identifying and pursuing these critical problems in the federal student aid program. The Subcommittee staff is also to be commended for months of excellent work on this issue, one of the most important facing our nation's educational system today. I'm looking forward to the Subcommittee's future hearings on other aspects of a crisis in the U.S. student loan program.

Senator Nunn. Let me ask a couple more and then I will yield. One thing that is especially troubling to the Subcommittee is the clear fact, Mr. Taylor, that your group did not warn ACCET about the problems you uncovered at Culinary School. Is that correct? And why did you not, if you did not?

Mr. Taylor. I cannot answer that. I will double-check again. In retrospect, it obviously was the thing to do. I would point out that our observations were confirmed by the Veterans' Administration and the District agency, as well, and the truth I believe is that we did not know ACCET was in the game.

Senator NUNN. Correspondence that Culinary School was using from 1985 indicated dual accreditation, listed both NATTS and ACCET. Nobody caught that in your organization?

Mr. TAYLOR. I do not know.

Senator NUNN. Mr. Williams, what about that? Did it not make ACCET suspicious that they had two accreditations?

Mr. WILLIAMS. Well, I am surmising, because I was not there at the time, sir, but I do not think it inherently would have. Unfortunately, the application at that stage, as I indicated earlier, was a one-page document, it did not ask any question with regard to any adverse action from that accrediting agency. It simply asked do you have accreditation with another agency, and they did indicate that NATTS was their accrediting agency at the time.

Senator NUNN. Mr. Williams, your records reveal that you never did a site visit on any of the auxiliary classrooms that Culinary used. Is that accurate and, if so, why not?

Mr. WILLIAMS. I believe it is accurate. I have not got correspondence in the records that indicate that they were reviewed.

Senator NUNN. Do you know why not?

Mr. WILLIAMS. I can tell you what the reality is, whether it is defensible or not. Until May of this year, there was no formal requirement for a preliminary visit. There was a 4-month follow-up visit that was required for the opening of branches and auxiliary classes.

Senator NUNN. Have you changed that now?

Mr. WILLIAMS. Yes, sir, we have. I offered it, in fact, and the commission passed it this past May.

Senator NUNN. I have a lot of other questions, but I want to yield to my colleague Senator Roth, and then we have other witnesses this morning, so I will probably ask a few for the record. I will try to minimize it, but we do have a number of things that we would like to get for the record.

Would it be fair to say, Mr. Williams, that you have learned a great deal in the year you have been there and that you are trying to take corrective steps? I mean that is the way I read your statement.

Mr. WILLIAMS. I would certainly hope so, sir. I think that not only has the climate changed drastically in the last few years. In addition, ACCET has in its recognition process, while a number of people have cited the failures in the National Advisory Committee and the Accreditation Agency Evaluation Branch, we found that they did a very vigorous report, and I think one of the great benefits to us over the last year has been looking at that in a very open-minded, self-analysis fashion, and I think that our commission has come up with a number of policies and procedures, many of them frankly long overdue, and I think there is a real sense of rigor and commitment to the system. I think we have learned a great deal.

Senator NUNN. Mr. Taylor, are you making a number of changes, too?

Mr. TAYLOR. We have, and as I pointed out in the testimony, we have made more changes in our standards in the last 2 years than the previous 10, and not only changes in the standards, but other supplementary procedures, such as the rapid response team, more aggressive reporting, monitoring, et cetera.

Senator **Nunn**. Do you think the problems here—I know that you are not ever going to eliminate all the problems, but do you think that the system as it exists now has to be totally revamped, or do you think it can be improved under the existing system?

Mr. **Taylor**. I think it is a matter of fine-tuning, and I would remind you again of the witnesses' comments yesterday, that locks are made for honest people and that every time a commission makes an adjustment, there can be a countermeasure by dishonest operators. But I do not believe that the witnesses we heard yesterday is representative of our schools or that there are many or any of them known.

Senator **Nunn**. Senator Roth.

Senator **Roth**. Mr. Taylor, in view of your statement of fine-tuning, you defended the performance of your agency by arguing that a small percentage of your schools are bad. Yet, GAO has found that approximately 45 percent of NATTS schools qualify for the department's default management plan, and nearly 50 percent of ACCET schools would qualify. So, does that not indicate that there are more than just a few bad apples?

Mr. **Taylor**. Well, I go back to Dr. Manning's comment this morning, and that is that you cannot automatically link default with bad educational performance. I have personally visited some of the schools that were on that list. I have visited vocational schools in 26 nations, and some of these schools were as fine as you will ever see. They had good retention and good placement, but they did have default problems.

Senator **Roth**. I think you are going to have a hard time explaining that to the taxpayer.

Mr. Williams?

Mr. **Williams**. Sir, I am one of the few people probably in accreditation that actually ran schools for a number of years, and I had a vocational school right here in the District of Columbia, in fact. For fiscal year 1987, we had a default rate, as I recall, of about 27 percent; in fiscal year 1988, it went down to about 23 percent. This was a school that had no ability to benefit the students, it had a 100 percent pro-rata refund policy, it had a 45-day full money-back guarantee. It was cited by the District of Columbia City Council for its great work. We had Secretary of Education Bennett visit us during a graduation exercise. It had a 90 percent-plus placement rate.

By all accounts, it was a fine school, and yet we had a default rate that was in the twenties. I think it is extremely important to take into account the fact that default rates have only been around in the published form that they are now for the last 2 years, that these are not refined data yet. There is no question in my mind that, when you get into the high levels of default, there are very serious problems. But down at the lower levels, certainly in the twenties and thirties, I think there is a great deal of variation, and that needs to be taken into account until the data is better reviewed and analyzed.

Mr. **Taylor**. Senator, if I could just add to my previous comment on the 1989 school list of the Department, which is is what I assume you are working from, only 29 of those schools are NATTS schools, and one-third of them are no longer accredited by NATTS. So there are some reporting and data problems.

Senator ROTH. In your statement you outlined the actions that NATTS accrediting commission took to eventually revoke the Culinary School's accreditation. If the commission truly intended an expedited review and revocation, why, then, in October of 1986, did the Commission allow the Culinary School an extension to comply with certain demands?

Mr. TAYLOR. In October of 1986?

Senator ROTH. If I understand——

Mr. TAYLOR. Again, in terms of due process and giving the school appropriate time to respond, the Commission staff granted them a 30-day. I was not there, I was not a part of the Commission at that time, and I cannot give the exact details as to why it allowed that extension. I would say that, in today's market, that would not happen.

Senator ROTH. That is all I have at the moment, Mr. Chairman.

Senator NUNN. Mr. Williams and Mr. Taylor, we thank you both for being here. These hearings are going to go on a while. We have other phases we are going to be looking at and we will come up with a series of recommendations to the committees and subcommittees that have direct jurisdiction, legislatively. We are an investigative subcommittee and we are not experts in this area, but we will make all of our findings known to them. And if you have other recommendations, as you follow this process or as you review your records, we welcome that.

Mr. WILLIAMS. Thank you, sir.

Senator NUNN. Thank you for being here. We will have a few questions for the record. We will try not to burden you with them, but it would be helpful if we could get them.

Mr. WILLIAMS. Yes, sir.

Senator NUNN. Our last panel today consists of several distinguished State regulatory officials who will provide us with their assessment of the effectiveness of the system that governs access to the Federal student loan program.

Joining us are Sam Ferguson, Executive Director of the State Board of Independent Postsecondary Vocational, Technical, Trade and Business Schools, Florida Department of Education; John Haworth, School Evaluation Specialist, Department of Recognition and Supervision, Private Business and Vocational Schools Unit, Illinois State Board of Education; and Mr. Joe L. McCormick, Executive Director, Texas Guaranteed Student Loan Corporation.

Gentlemen, if you would each come up and, before you get comfortable here, we will ask you to take the oath.

Do you swear that the testimony that you give before the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. FERGUSON. I do.

Mr. HAWORTH. I do.

Mr. MCCORMICK. I do.

Senator NUNN. Thank you.

Mr. Ferguson, we have listed you first here, so unless the panel has other choices to lead off, we will hear from you first, and then we will go to Mr. Haworth and then Mr. McCormick.

TESTIMONY OF SAMUEL L. FERGUSON, EXECUTIVE DIRECTOR, STATE BOARD OF INDEPENDENT POSTSECONDARY VOCATIONAL, TECHNICAL, TRADE AND BUSINESS SCHOOLS, FLORIDA DEPARTMENT OF EDUCATION [8]

Mr. **Ferguson**. All right, sir. First of all, I appreciate the opportunity to be here. I usually stay in the triad down there. The triad to me, of course, is South Georgia, the panhandle and lower Alabama, so this is quite a treat for a country boy.

Senator **Nunn**. We are glad to have you here. I understand every word you are saying, too. [Laughter.]

Mr. **Ferguson**. Thank you, sir.

I will not burden you with my statement. You have it there. One of the things you might want to look at, I have included a school down in South Florida, the District Court down there ordered that ACCET issue them provisional accreditation, and I think that it is very interesting, in terms of the court order, that it says "shall grant provisional accreditation to the plaintiff," it lists them, "forthwith, and assets shall provide appropriate letter of accreditation to enable the school to qualify for participation in Title IV funds of the U.S. Department of Education."

Senator **Nunn**. Was that a bankruptcy court or Federal District Court?

Mr. **Ferguson**. No, sir, that is a State court, the Circuit Court of the Eleventh Judicial Circuit in and for Dade County. It is very interesting that accreditation has never been seen as the gatekeeper of Title IV funding, and yet it would appear at least to me that they certainly hold the keys for it. I think that at some point we are going to have to decide what, besides accreditation, is going to open up Title IV funding doors.

A couple of things that were mentioned here today, Dr. Manning——

Senator **Nunn**. Is somebody appealing that case?

Mr. **Ferguson**. No, sir, I doubt it. I imagine they will open up Title IV funding.

Senator **Nunn**. So that means that any Circuit Court in any State in the country, if nobody appeals, can basically order an accrediting agency to open up the gates of the Federal Treasury?

Mr. **Ferguson**. That is certainly the case in Florida. I would not know about the other States.

Senator **Nunn**. I think that really raises a serious question. I do not know the answer to it, but I would think that we need to think in terms of legislation on that. If any judge anywhere in the United States, not even a part of the Federal system, can order that and there is no appeal, the question is whether the Department of Education is going to get involved and appeal. Do you know whether the appeal time has run out?

Mr. **Ferguson**. I do not, sir, no.

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[8] See p. 442 for Mr. Ferguson's statement.

You have in my statement a couple of letters. One of them is to COPA. I have yet to receive an answer, in terms of what they are doing with that accreditation.

You also have brought up working with the Department of Education. There needs to be better coordination. There needs to be better coordination between accrediting agencies, between the department and between the States. State laws differ dramatically. We ourselves in Florida have recently revised our statutory authority in terms of what we can do, a lot of our new statutes you will find gets into, perhaps, the accreditation area, but we have had to do that, for a number of reasons.

Working with the Department of Education, you see—I hesitate—perhaps a revolving door may be an adequate way to describe it. In my own experience with the credit clock hour, I will tell you that our current rule concerning credit clock hour measurement was written or, at least if not written, certainly there was a lot of input from the USDOE, in terms of how we write that rule. I am not sure that we need to get that coordinated.

We have 507 licensed schools in the State of Florida; 29 percent of those are accredited. Certainly, the other 60-some-odd percent somehow are able to maintain a student body, if you will, without Title IV funding.

In talking to Senate staff, we have estimated in Florida that well over 50 percent of our time is devoted to dealing with accredited schools, as opposed to the non-accredited schools. Last year, we did 92 on-site visits to only 50 schools. Those repeats were for the same reason that you heard some of the Accrediting Commission folks tell you that you have to give due process, so it was a matter of saying, hey, we found you doing this, now what you need to do is go forth and do good, we are going to be back, and in going back we found that they went forth and not always did good.

But it is a problem, it is a problem for the State, it is a problem I think nationwide, in terms of what do we do and how do we do it.

Senator **Nunn**. Mr. Ferguson, you are saying that you have more trouble in Florida with schools that are accredited than with those who are not?

Mr. **Ferguson**. Yes, sir.

Senator **Nunn**. In terms of what, quality of education?

Mr. **Ferguson**. Yes, sir, I am. I think, at least in my experience, that is true. I think you would find that in other States also.

I will make one last point and then I will——

Senator **Nunn**. Why is that? Can you tell us why that is?

Mr. **Ferguson**. I do not know. I honestly do not know. I think that my own opinion is that if you take a little, what we call a mom and pop school and they are going along doing a fairly decent job, they have got 100 to 120 students, all of a sudden they are accredited, Title IV funding is available to them, and within a year you see that they have 300 to 400 students, and yet they have not increased their support structure, they have not really increased their ability to offer the training to those 400 to 500 students, but yet they have them in there. Of course, when that occurs, certainly the quality and academic excellence is going to go down. That I think is a partial answer.

One other thing I would add, and then I will cease and desist here, the concept of the triad, again we talk about the Federal, State and accrediting agencies. Accrediting agencies are nonprofit 501(c)(3) or whatever. They are not a governmental entity. I am not saying governmental entities would correct all of the deficiencies, but at least if the State, DOE and perhaps the guarantors or the lending institutions would take a little bit more responsibility, or if we had a little bit more authority and a take a little bit of burden off those accrediting agencies, I think you might see that the default rate and some other problems that we are experiencing would be on the wane, I think they would decrease.

I would be happy to answer any questions that you might have.

Senator **Nunn**. Thank you very much, Mr. Ferguson.

On the point Mr. Ferguson just made, if I could ask Mr. Haworth and Mr. McCormick to answer this question, and then we will get to your testimony. Do you have the same view, that in your States you have a more difficulty with the schools that are accredited than those that are not?

Mr. **Haworth**. Absolutely. In fact, in my testimony I point out that we did not get a written complaint about any non-accredited school in the past few years. In fact, the person who is responsible for processing these complaints cannot remember when we have received a written complaint about a non-accredited school.

Senator **Nunn**. Mr. McCormick?

Mr. **McCormick**. Since we administer the guaranteed student loan program, the only schools that——

Senator **Nunn**. You would just naturally hear from them?

Mr. **McCormick**. We only deal with accredited schools, so I have no information on the quality of the non-accredited schools.

Senator **Nunn**. Well, maybe Mr. Haworth could offer an opinion of why that is. We asked Mr. Ferguson that and he gave us his view. Why do you think you are having more trouble with the accredited schools than non-accredited in Illinois?

Mr. **Haworth**. First, in the main, I agree with Sam. I think his analysis is in part correct, but I think the answer that our staff members will give is that, in the case of the accredited schools you have Federal funding, and the admissions requirements for the accredited schools may, in fact, be less than for the non-accredited ones. The non-accredited schools many times are in smaller communities. They are smaller schools. Their reputation depends on producing graduates who can get jobs.

In the city of Chicago, where most of our problems would exist, there is not that kind of communication. The buyer is not as sophisticated, and, in fact, what is happening in far too many cases is that financial aid is being sold to these people, and the dropout rate and the default rates is high.

Senator **Nunn**. Okay. We will come back on that one.

I guess, Mr. Haworth, we are to hear from you next.

TESTIMONY OF JOHN C. HAWORTH, Ph.D., SCHOOL EVALUATION SPECIALIST, ILLINOIS STATE BOARD OF EDUCATION [9]

Mr. **Haworth**. Thank you very much, Senator.

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[9] See p. 456 for Mr. Haworth's prepared statement.

I should point out that I have been in this business for 14½ years and in education for 40, having worked in private colleges and universities and in public high schools, as well.

I should also note that I am one of 8 people, professionals, on a staff which currently regulates 230 schools. I like to kid about this, but as your staff knows, 2 weeks ago I was in the hospital for angioplasty, and I am not the only person on our staff who has suffered from heart problems, because of the stress and strain that we have with what we consider to be an overload, in order to keep our schools properly regulated.

Several years ago, I invited the director and an assistant director of one of our schools to visit my office in Springfield. The school had been in existence for less than a year and a half at that time. They had enrolled about 1,500 students.

I asked the question of the director, how many of their graduates had secured placement. He paused for a moment and he said 10. The assistant director shook his head and corrected him, because just the day before he had made a count of the actual number, and the number was seven.

Ever since that time—by the way, that school went out of business shortly afterwards—ever since that time, I have wondered whether or not we had done the right thing, whether there had been anything that we could have done to deny that school approval.

In fact, if you look at our list of regulations and rules, and they are very extensive, perhaps as extensive as any of the States of the Union, you will find that the school met all of the minimum requirements of the State of Illinois. We had no reason not to approve them.

I truly regret that I issued that certificate. But I am making no excuses, because, in fact, if you look at the Illinois law and the law in most of the other States, you will find that the law was written to provide—and I emphasize this—basic consumer protection. It does not really speak to the question of quality of program. It speaks to full disclosure of students about what the school is all about, the kinds of jobs they might secure, truthfulness and that sort of thing, and in many instances what you find in the law and the rules and regulations are principles stated, but with very little accountability attached at the same time.

While we as a staff become alarmed by what we see and we are frustrated about how little we are able to do under the law, I do believe that we have, at least in the State of Illinois, in the main succeeded in carrying out our charge, and I think that is true in a number of the other States, but not in all.

If a school is willing to take the time, eventually they probably will get a certificate from us. However, very few of those schools that receive certificates do, in fact, lose them. In my 14 years with the office——

Senator **Nunn**. Do in fact use them or lose them?

Mr. **Haworth**. Lose them.

During my 14 years with the office, only two schools in Illinois have been closed as a result of our very cumbersome and laborious hearing process.

The history of proprietary education in Illinois has not always been a happy one. You may know that in 1975 The Chicago Tribune ran a number of exposes. At that time, we got a new law. And just 2 years ago, The Chicago Sun Times ran a whole series of articles again, and once again that law was modified.

The law is said to be reform legislation. And while it is true that we got some things in it that will be helpful to us—for example, that the schools must now disclose their placement and graduation rates on contracts that students receive—and we assume that some of the students will read that information—still, at the same time, in the matter of refund policy, interestingly, the policy we have in 1990 is less favorable to students than the refund policy that we had in 1975.

Accredited schools may obligate students fully after only 50 percent completion, and interestingly, nonaccredited schools, those schools that don't cause us any trouble, are required under the law to have a modified pro rata refund policy which obligates the students only after 80 percent.

Senator **Nunn**. That is under State law.

Mr. **Haworth**. That is under State law, that's right.

Senator **Nunn**. The 50 percent with accredited is under Federal law; is that right?

Mr. **Haworth**. That's right, yes. And I should add here, as the gentleman from NATTS pointed out, that in the case of an accredited school with NATTS, the students would come under the 75 percent rule because of Accrediting Commission requirements.

We have for a number of years talked about matters of Triad and reciprocity. When I came onboard 14½ years ago, these were talked about a great deal. The fact is that in Illinois, our contacts with the accrediting commissions have in the main been limited to serving not as members of accrediting teams, as somebody said this morning, but as observers on accrediting teams, with little or no input at that time.

We have in recent years, in the last 2 or 3 years especially, had a growing number of contacts with staff members in the Inspector General's office in our region, some contacts with Washington, and we have carried on regular conversation with those staff members—many of them are now our friends—and we have found the regional office in the last year taking initiatives that they had not taken before. They have talked not only to us as State regulators, but to a number of other groups within the State of Illinois that have some interest in regulation.

For 6½ years, we in our State labored to get new rules and regulations. We had started work on the rules and regulations originally because a joint committee of the legislature had said that our old ones were somewhat defective and needed to be improved.

People frequently have asked why did it take so long. We had before that 6½ years studied all the rules and regulations of all the other States; we had studied the requirements of all the accrediting groups and tried to adopt what we thought would be a model for all the other States in the Union. We found that we were a bit idealistic because in the actual political process within the State, the students do not have any spokesmen on their behalf, but the schools do.

After our first open hearing, we received about 48 letters, and we found that this process was carefully orchestrated. The very last letter we received was the longest of all, and that was a letter which covered all the rules that had not already been criticized—in fact, every, single thing that we had written had some kind of criticism about it.

This resulted in the Speaker of our House calling a task force together for one day where the rules were again attacked. This caused us to go back to work again, and another hearing being held, and finally, on May 3rd of this year, we had some rules for the new law. We believe that there are many things in the rules which will be helpful to us. For example, we may now suspend a school if we find it is out of compliance in any way; we give them 15 days to respond to what our findings are and 15 more days to be fully in compliance before we can then take action to begin the hearing process which, again, may be a very slow one. But we consider this change to be a very important reform.

However, once again we find that every time we win something for the students, we lose something as well. I'll give just one example.

We have talked about financial viability several times here today. The joint committee of the legislature told us that we should have some standards for financial viability. So what did we do? We set some standards that were as simple as this: The school pays its rent. The school pays its faculty. The school provides the books that the students are supposed to get, and so forth. That whole section was removed from the rules.

So some of our rules are very similar today to the policies that you will find that some of the accrediting commissions have; that is, they are statements of principle for which the school cannot actually be held accountable.

Senator NUNN. It sounds as if you are describing a very powerful political lobbying organization here that is affecting your ability to get things through the regulatory or the legislative process. Is that right, or am I misreading?

Mr. HAWORTH. Interestingly, in Illinois we do not have a strong, viable, organized group of schools. It is true they have their organizations, but normally they do very little. They only become organized at such times as they think that something of this sort might happen.

There are close connections between the organizations, yes, and the State Chamber of Commerce has become involved and other groups, in part from a philosophical point of view—and it is one that can be argued—that these are businesses, small businesses, and that they should have their right to exist as a business with minimum interference.

Senator NUNN. Well, that's the old S&L philosophy. That's fine, as long as it is not with the taxpayers' money, but basically you are talking about something not operating in a free market here; you are talking about the Federal Government backing it up, paying for it, paying for the defaults, spending $2 billion a year.

I think Senator Roth and I would agree. We believe in the free market and free enterprise, but this is not free enterprise when the Federal Government has got its hand there and the money is being supplied by the Federal Government. It can be considered a business, but it is certainly going to have to have some regulation, or we've got to get the tax money out of it, one way or the other, as I see it.

Do you see it that way, Senator Roth?

Senator **Roth**. I agree absolutely, Mr. Chairman.

Could I just throw out one question. Isn't the problem in the system essentially with the proprietary schools?

Mr. **Haworth**. Yes.

Senator **Roth**. We don't have the same problem with our established colleges, whether they are 2-year or community—or, do we? Let me ask you that question.

Mr. **Haworth**. I think the answer is right. Until about 7 or 8 years ago, our office had responsibility for all the private colleges and universities in the State. We have about 140-plus of those. The responsibility for those schools is now with the Board of Higher Education. We traded off some responsibilities.

We talk with these people all the time. The only problems that they have with schools are with those proprietary institutions that also come under their jurisdiction which are degree-granting.

Senator **Roth**. The reason I raise that, Mr. Chairman, is that it seems to me that a system that is working acceptably well with established schools has opened the door to these proprietary schools, which sometimes are merely money-making organizations.

It seems to me that we may need a whole different system from what we have.

Mr. **Haworth**. If I might make one other observation about one reason why perhaps many legislators are not as interested in these schools and don't pay a great deal of attention to what is going on here, is that in Illinois there is no State money involved at all. Our Scholarship Commission does not give money to students who attend proprietary institutions.

Senator **Roth**. Again, it seems to me we are right back in the situation that we were in with the S&Ls. People are playing with other people's money with nothing at risk. I think that is a large part of the problem. Unfortunately, it is a common problem when the Federal Government gets involved.

Senator **Nunn**. Mr. Haworth, have you concluded?

Mr. **Haworth**. Yes, sir.

Senator **Nunn**. I guess one question to the whole panel, and then we'll hear from Mr. McCormick, is one Senator Roth just raised: Do we need something totally different for these proprietary schools? Do we need to break it out of the overall regulatory scheme for the other parts of the student loan and have something separate and apart for this group of schools?

Mr. **Ferguson**. Sir, if I might—and you say you understand my dialect here—when I tell you "that dog won't hunt".

Senator **Roth**. I could not hear you.

Mr. **Ferguson**. When I say this right now, and the chairman understands this when I say it, being from South Georgia: That dog won't hunt—in fact, that dog won't even get off the truck.

Something—something—has got to occur so we can ensure first of all that those students—and they are out there—those students who need access to these funds, we have got to ensure that they have it. But number 2, we have got to ensure that those folks who are purporting to offer that education to them are responsible not only to the taxpayer but to the student that they are going out and recruiting. I think that can be done.

Senator Nunn. You are saying under the existing scheme?

Mr. Ferguson. I'm saying under the existing scheme, it is just not working.

Senator Nunn. You're saying don't break it out under something brand new?

Senator Roth. You are saying the opposite, aren't you?

Mr. Ferguson. I'm saying that the way it is set up currently, it is not working; it is not working in Florida, and from what I have seen it is not working nationwide. And I will say something else, Mr. Roth——

Senator Nunn. But here is what Senator Roth said. He said that we need to break this out, or we might need to think about breaking this out and doing the proprietary schools totally different. And you said "that dog won't hunt." I know what that expression means, but I'm not sure which "dog" you're talking about.

Mr. Ferguson. I'm saying you are not going to be able to break it out; you can't.

Senator Nunn. You don't think you can break it out?

Mr. Ferguson. No, sir, I don't think you can.

Senator Roth. Why—politically, or otherwise?

Mr. Ferguson. Well, certainly, we would be naive to believe that there wouldn't be a lot of politics involved there. But I think the key is—I would hate for us to be in the position where we may be saying because you want to go to a vocational/proprietary school that that makes you different from someone who is going to a vocational school in the public sector.

Quite honestly, overall nationwide, the proprietary schools do a good job. Now, I'm talking about overall. In Florida, again, I will tell you—think about what I'm saying here—of the 507 licensed vocational schools, 149 of them are accredited, receive Title IV funding, and yet of those 149 we are talking certainly less than perhaps 20 percent, maybe 10 percent, that we have problems with. So the rest of them are doing an adequate job.

And I think we need never to lose sight of the fact that we need to look at education as a total delivery system, and I think there are ways to do that and still protect the student.

Senator Nunn. You think we ought to take the existing system and make it better, not come up with a new system for proprietary schools.

Mr. Ferguson. Yes, sir.

Senator Nunn. Mr. Haworth, what do you think?

Mr. Haworth. Well, let me say first that that 20 or 25 percent figure about bad schools is probably what we would say in Illinois also. However, we should point out that many of these schools are very large schools. So if you take the total number of students involved, the number of students affected would go well beyond that. And there are some schools that are marginal, and we believe that if they don't come under regular monitoring from us, they could easily slip across the line.

We try to make two visits to each school each year with our staff members, and we try to have a full team visit at least once each 3 years to our schools. In fact, we have a team going out next week which will be going in the third time into one school in less than a year.

It is my opinion—and I don't have specific ideas about what to propose here—that it might be in the best interest of the proprietary school industry and of the citizens of our country if in fact financial aid were broken out in some way.

I am not sure that many proprietary schools, by strict definition are, in fact, postsecondary today. Given the nature of the abilities and the kind of education these young people have had in the secondary schools before they come, you learn they are the most vulnerable people that you can possibly imagine when you interview them. They don't know how to make comparisons between schools. They are not capable of doing that.

So I think that in some States—and I would include ours as one of those—that it might be quite possible for nonaccredited schools to qualify for Federal moneys given the kind of regulation which we have, and you would not have any more problems than you have now.

I think there are some States that really are working hard at this, but I can take you to major States—right now I can think of one—that because of reduction in staff has only one person—one of the largest States in the Nation. I can take you to Missouri, which has a half-time person trying to take care of the whole State of Missouri with a half-time secretary.

If the States are willing to put in the resources and have the kind of staff and carry on the kind of monitoring that I am talking about—and I'm not trying to argue against accreditation here—but I think it would be possible that we could set up such a model and make it work.

Senator **Nunn**. Thank you.

Mr. McCormick, we'll hear from you now.

TESTIMONY OF JOE L. McCORMICK, PRESIDENT, TEXAS GUARANTEED STUDENT LOAN CORPORATION [10]

Mr. **McCormick**. Thank you, Senator.

I appreciate the opportunity to address this Committee. I have been in the student loan business for almost 25 years now. I have been very outspoken concerning the fraud and abuse in the Student Loan Program, and at some risk, I might add, published in 1989 a "School or Scandal?" document that outlines some of the fraud and abuse that we have uncovered in Texas.

I want to start out by saying, before we give people the wrong impression, that we fully recognize the valuable contributions made by well-run proprietary schools in our State and throughout this Nation. But there can be no place in any student aid program for the profiteering, money-merchant mentality of certain school owners who simply treat their school as a "cash cow," with no intention to provide a quality education.

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[10] See p. 470 for Mr. McCormick's prepared statement.

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Now, it is not enough to simply stand up here and point fingers at the fraud and abuse that exists in these programs. We have to sit down and work out realistic solutions to these problems, and more importantly, we cannot be swayed, and we must not yield to the political pressures or threats from vested interest groups that would deter us from this action.

In listening to the testimony this morning, on the surface it would appear that schools have to go through a lot of trouble before they are approved to participate in the student loan programs, but in reality, our experience has been that getting accreditation is not difficult. There are several accrediting agencies, and it does not appear to be difficult for schools to attain accreditation.

Being certified by the Department of Education to be eligible for Title IV aid doesn't appear to be very difficult, either. The Inspector General, in a September 1989 report, reported that over a 4-year period the Department of Education received and processed 2,087 applications for eligibility and denied only 60 applications.

I think you should also consider, in addressing the fraud and abuse that exists, the dramatic growth in the loan programs and in the number of proprietary schools that has just occurred in the last 4 years. In Texas alone in 1986 we had only 167 proprietary schools. In 1990 we have over 400.

During that same period, supplemental loans for students grew nationally from $279 million in 1986 to over $2.1 billion in 1989. Just in the past 2 years, in 1988, nationally default claims paid by guarantee agencies was only $35 million in the Supplemental Loan Program. In 1989, the very next year, that figure rose to almost $300 million in default claims.

Based on our experiences in Texas, I am firmly convinced that the single most effective measure to be taken to address fraud and abuse in the Guaranteed Student Loan Program does in fact involve school eligibility and certification by all the appropriate entities.

Since 1988 our compliance staff has conducted 92 school reviews, negotiated 33 default reduction agreements, exercised 11 emergency suspensions, and terminated five schools or lenders, and some of the most common abuses cited by the Inspector General in his testimony before this Committee are exactly what we found in Texas: untimely student loan refunds, violations of ability-to-benefit, failure to demonstrate the ability to properly administer the program, and abuses in course-stretching.

As I was leaving Texas yesterday to come to this hearing, on the front page of the Austin American Statesman was a fullblown article about a trade school that just suddenly closed its doors, a national trade school that had at least six locations in Texas, 21 locations nationally. It taught bartending and security guard training. These were 300-hour courses, because that is what you are required to have to be eligible for guaranteed student loans, is a 300-hour course. Now, in the State of Texas, you can get a license to be a security guard for 30 hours of instruction. You can get a bartender's license for 80 hours of instruction, and you can go to a local community college and pay $96 to take either course.

Now, this school was in operation for over 4 years and was accredited by a nationally-known accrediting agency, and the information that I have given you has been known to that agency.

Senator **Nunn**. Which agency is that?

Mr. **McCormick**. It is the National Association of Trade and Technical Schools.

How can we relate to the feelings of frustration and victimization that these students must feel after their dream of a better life has been turned into nothing more than a debt, a debt that they either cannot or will refuse to repay? Shattered dreams, ruined credit, high default rates, and all in the name of providing access to needy students.

Senator Nunn, in your recent press release you commented—and I quote—that "unscrupulous trade school owners amass huge profits while providing little or no useful training at the expense of unsuspecting students, and despite these problems, far too many of these bad schools continue to be licensed, accredited, and certified for Federal funds."

I couldn't agree more, and I will use another South Georgia expression. I think there ought to be a bounty on these schools and no bag limit.

When I read comments on the other hand that these programs are riddled with waste, fraud and abuse, and just plain inefficiency, and that this is a Federal program teetering on the brink of disaster, I have to, with all due respect, Senator, call great exception to that comment.

Overall, these programs are sound and provide a valuable contribution to the future education of this Nation's young people. And in recent months, positive steps have been taken by the United States Congress, the Department of Education, guarantee agencies, State licensing boards, and the reputable proprietary school owners that I have met with personally in my own State of Texas.

So there are problems and there are solutions, and let me just name three. I think number one, this Congress this session, before you adjourn, should require that all eligible schools are required to have a minimum of 600 clock-hours, thereby eliminating all of these short-term courses such as dog grooming schools, bartending schools and card dealing schools, from GSL eligibility. The eligibility for Federal aid would be at 600 hours, which means that students would have the opportunity to receive Pell Grants as a part of their financial aid package and not totally rely on loans.

In addition I would point out that this recommendation would involve immediate budget cost savings as you try to close out budget reconciliation for fiscal year 1990; this is something that would in fact drive budget savings in that process.

Second, return all course-length requirements for proprietary schools to clock-hour calculations and provide severe penalties for course-stretching.

Third, adopt the prevention measures of Senate Bill 695 that is now pending before the conference and is ready to go to a conference committee.

In closing, let me again emphasize that this program is viable, it is effective, and it is unfair to thousands of good school owners, lenders and students who participate in this program to refer to it as a national scandal in the making.

It is a program that needs attention—it needs immediate attention—and swift and decisive congressional action in order to protect the integrity of this program and restore the public's confidence in it. In our zeal to abolish fraud and abuse, let us be careful that we don't throw the baby out with the bath water. The young people we serve are depending on us to do what has to be done to guarantee that they have a future and that they have an opportunity to pursue it.

Thank you. I'll be glad to answer any questions.

Senator NUNN. Thank you very much, Mr. McCormick.

Mr. McCormick, you don't consider this a scandal?

Mr. MCCORMICK. Senator, I don't consider it a widespread scandal that involves draconian measures. I consider it isolated in the sense that there are problems in the system that people who choose to can take full advantage of, and those problems need to be addressed.

For example, I think the accreditation process is being asked to do more than it was designed to do. And I'm not so sure that we shouldn't involve the certification of student aid eligibility in a different process, similar to the way you certify schools eligible to receive Veteran Affairs benefits.

Senator NUNN. More like the veterans program?

Mr. MCCORMICK. Yes, sir. I don't know that you need accreditation in this process at all.

Senator NUNN. I notice your publication you held up says "Schools or Scandals?"

Mr. MCCORMICK. Yes, sir.

Senator NUNN. So you must think there is some scandal here.

Mr. MCCORMICK. Absolutely. We live with it every day.

Senator NUNN. Well, I think that is what I said, that it was a scandal.

Mr. MCCORMICK. I'd like to clear up one matter——

Senator NUNN. You are just saying that we ought to continue to emphasize that there are good schools out there.

Mr. MCCORMICK. Yes.

Senator NUNN. I think that has been said in every statement. That is not always what you read in the paper, but every statement I have made in the year we have been investigating this has been that there are good schools, that we are dealing with the bad apples, but there are a lot of bad apples.

Mr. Haworth just talked about 25 percent in his State; Mr. Ferguson talked about 20-25 percent; Mr. Haworth said in Illinois they have more than 25 percent of students in proprietary schools because of the large schools.

It seems to me the scope of this is nationwide, and it seems to me it is scandal.

Mr. MCCORMICK. Well, I think in response to your earlier question, we need to recognize that they are different.

Senator NUNN. Proprietary schools?

Mr. MCCORMICK. Proprietary schools should be in the Title IV program, they should be participating in all those programs. But it is ridiculous for the Department of Education, in writing the rules and regulations, to administer these programs, to force guarantee agencies and force regulating agencies to treat West Texas Barber College in the exact same manner that we treat Harvard University, because they are different type schools, and there are differences that need to be recognized in rules and regulations.

Senator NUNN. We heard this morning from Jan Friedheim, who testified that her school was told by the Texas Guaranteed Loan Agency that they must process a student loan for a student who told them the money would not be used for education.

Did you hear that testimony?

Mr. McCORMICK. Yes, I did, and I'd like to clarify that.

Senator NUNN. Yes, I'd like for you to do that. You heard what she said. She said basically even if they were going to buy a car or go on a vacation, they were told they had to process it and give the money.

Mr. McCORMICK. I appreciate the dilemma Jan finds herself in, and if any of my staff has given her misinformation, I apologize. I think what needs to be clarified here is that the student signs a certification statement on the application that he will use that loan for educational purposes. And if anyone on my staff advised her that if he were going to use that loan for something other than educational purposes that she had to give it to him, then that was in error because we are not advising people to be accessory to a criminal act.

Senator NUNN. So that the law is clear on that point, then.

Mr. McCORMICK. Right. What I think my staff was trying to advise her is that a school cannot require the student to deposit those loan funds at that school. Those loan funds are made available to the students, and once they have taken out their money for tuition and books and other charges, if the student demands it, he can receive the balance of the funds.

Senator NUNN. But if the student tells them in effect that he is going to use it for a vacation or for a noneducational purpose like an automobile, then that individual processing that can say, "Wait a minute. This would be a violation. I'm not going to do it."

Mr. McCORMICK. If you can prove that, that is true.

Senator NUNN. Well, if they told you, you can prove it. You seem to have some doubt.

Mr. McCORMICK. Well, I don't know that you can prove intent. I don't know that you can prove that she is going to use the money for some other purpose or she is going to use it to pay rent.

Senator NUNN. Well, though, what she testified to this morning was that the student said to the school, "I am not going to use this for education; I am going to use it for an automobile and for a vacation." That's clear as a bell.

Mr. McCORMICK. If that be the case, then I don't think she is required under Federal law to give that student the loan. I think she can send it back to the lender and have it cancelled. But I think she would probably risk some litigation. The student would probably pursue that matter with a lawyer.

Senator NUNN. I don't know about the risk and litigation. If we have gotten to the point in this society that every time you do something right, somebody is going to sue you—now, maybe we have gotten there—but if you then refuse to do something right because you are afraid somebody is going to sue you, somebody could bring a lawsuit against Senator Roth and me tomorrow morning. We get sued. People get sued. But if we are all going to run from lawsuits, we are basically taking the lowest common denominator of legal behavior and frivolous suits and making it the standard of the country. I hope we don't do that in administering our program.

I mean, you can bring a lawsuit with nothing but a piece of paper——

Mr. **McCormick**. I think the most important thing is that that loan was made to the student, and his signature is on it, and if the school has received their funds, and the school is providing their services as the contract calls for, the student is entitled to that money to pay rent and to do things that he needs to do to sustain himself during the course of that term——

Senator **Nunn**. Including buying an automobile?

Mr. **McCormick**. No, I didn't say that. But I think we have to protect the student's right to have those funds available to pay for necessary living expenses, and I think Jan would agree with that. I think most of the financial aid community would agree with that.

Senator **Nunn**. Let me get Mr. Ferguson's and Mr. Haworth's comment on this, if the student says he is not going to use the money for educational purposes.

Mr. **Haworth**. I really don't know the answer to this. One of the points I guess I should make explaining our role is that we in the State have had very little if anything to do with Federal financial aid. We are observers to this rather than participants in it. And we don't pretend that we are experts in this.

What we do find when we visit schools is the schools that don't keep proper attendance records, that have students on the rolls and that kind of thing that should be there. But we don't try to interpret this. So I don't really know the answer to it. I am bothered by it, just as you would be—very bothered—but I don't know what the legal answer would be.

Mr. **Ferguson**. Very briefly, sometimes I overload myself. First of all, I think—and I specifically didn't say anything about it—first of all, she has identified a problem, and that problem is that these schools have a tendency in fact to overload a student. They in fact overload the student's ability to ever begin paying back some of these loans, the loans that are available, the SLS, the PLUS, she mentioned. Why in the world are these loans and the money available to those students if in fact they are not needed for education?

I think what you will find if you did a survey—and we did in Florida, took a look at one area—let's talk cosmetology for a second. We have recent taken over cosmetology schools. We have the difference between $2,500 tuition in a nonaccredited school, teaching a State-required 1,200-hour program, as opposed to a $7,000 tuition teaching the same program. And when you look at them, the only difference is accreditation and availability of Title IV funding.

Senator **Nunn**. That gets to Mr. McCormick's suggestion, which has some appeal, but I wonder if it will work, about passing a law that says you've got to have 600 hours in these schools. Unless you have some way of monitoring what they are teaching, they could simply take the bartending—the example that you have given—

that you could get for less hours and basically require more hours, and you wouldn't have done anything, just made the fraud worse.

Senator ROTH. Didn't they already do that, according to your testimony—move from a few hours to 300?

Senator NUNN. We have had some testimony where that is done—I think we had it in the last set of hearings—that they simply came in and taught the same thing and doubled the number of hours and charged more money.

Mr. MCCORMICK. Senator, that is why I have in the testimony the suggestion that you have penalties for course-stretching, that you literally would have to grandfather some things in there that would discourage that from happening if you passed that law.

Senator NUNN. That assumes somebody is going to be out there enforcing this business.

Mr. MCCORMICK. Yes, sir.

Senator NUNN. And that is what we are running into. We've got a lot of laws on the books that nobody is enforcing. Who is going to enforce that? Which one of the triad is going to enforce that?

Mr. FERGUSON. In my written statement I mention a program in Florida. We have a certified nursing assistant program you can get anywhere for 300 hours or less. We have one school that increased it to 1,800 hours. We did not at that point in time have the ability to do anything about it because we addressed minimum standards, but my goodness gracious—where does accreditation come in? Where do they play a role in terms of academic excellence and quality of education, if not in this very arena, in terms of the course-stretching?

If an accrediting agency, in my humble opinion, is doing what it is they purport to be doing, then they are looking at that program and again, looking at their criteria, if that program is not what would normally be offered, they have testified they have their experts go out, their curriculum experts—how, then, would they allow an 1,800-hour program to exist when everybody else teaches 300?

Senator NUNN. I would agree with you completely, with one big exception. That is, we have heard testimony from the accrediting agencies this morning that they've got 1,200 schools and 15 employees. A school comes in—we have seen the example of it already—and says well, we are not only going to teach them Italian cooking now; we are going to teach them French, Chinese and 16 other different types of culinary cooking, and they put all that on a piece of paper. Somebody is looking at that paper back in the accrediting agency, and nobody is going out there and looking—maybe once every 4 or 5 years.

So there are a lot of ideas here, but what I am not hearing is how we enforce these things.

Mr. MCCORMICK. If I could share with you what is currently happening in Texas, the licensing agency has to a large extent stepped up and tried to take that responsibility, and they are in the process as we speak of drafting rules that would discourage course-stretching. And the bottom line is that almost every State in this Union has a governing body that oversees colleges and universities, and they provide both minimum and maximum levels of instruction for bachelor's degrees, master's, Ph.D. And if educators can do it for those types of programs, I see no reason why you couldn't have minimums and maximums certified by industry or by educators or both, for plumbing and auto mechanics and other types of courses.

Senator **Nunn**. I'm not disagreeing with the idea. The only thing I am asking is about enforcement.

Mr. **Haworth**. If I might add something here, we are into another arena, actually, and that has to do with the matter of adoption of standards.

You have to have something to enforce. I have used the word "accountability". We have the same problems with bartending schools and security guard schools, doing the very thing that the others are talking about. Our law says 30 hours, and you can get a card and carry a gun.

There has been very little done by anybody in several areas. We have mentioned that there has been little or nothing done about ability to benefit testing. There isn't any agreement on testing, and we find all kinds of abuses of tests that are being used that are not standardized. They are not being properly administered. The results mean nothing.

We find that kind of problem. But in the area of curriculum and so on, we also have a great deal of difficulty. Our new rules do speak to this in some detail. But those parts of the rules where we try to establish some simple little standards such as that there should be no more than 4 people in a truck at a time when truck driving instruction is given get thrown out.

I visited a school in Missouri a couple years ago that had as many as seven people in a truck when those trucks were going out into the yards. This is not uncommon.

Senator **Nunn**. For what—that were teaching?

Mr. **Haworth**. Yes. They were teaching. You had an instructor—perhaps—and six students.

Senator **Nunn**. Were some of them in the back, or all of them in the cab?

Mr. **Haworth**. Well, they gut out the inside of a sleeper, you see, and then you put the bodies in there, and literally—this was a hot summer day when I was there—and literally, arms and legs were hanging out the windows as they drove down the streets of University City, MO.

So if you propose a common sense standard and say that, yes, there should be some observation in truck driving instruction, that it is helpful to see somebody else receiving instruction and watching them and hearing the corrections made for them, that not all of the work needs to be done behind the wheel, then we thought that for safety's sake at least, we ought to be able to restrict the number in the truck to 4. But we can't get such kinds of things through.

Senator **Nunn**. It seems to me that what I am hearing, and what I have heard in previous hearings, and what I have gotten into in other studies—for instance, the German system and the Japanese system of teaching skills training—that we have really developed a culture where we treat with disdain job skills training as opposed to college education. I mean, it just seems to me we are talking about something much broader than the student loan program. We are talking about a culture of not having respect for the skills that are essential to run this society.

I think that probably has a heck of a lot to do with our lack of productivity growth and some of our economic decline.

The other countries just don't treat it this way. They treat technical training as an important part of their overall economy, and they treat people who are in this, not going to college, with a great deal of respect. They do it in Germany; it is part of their culture. They do it in Japan, and they are very, very productive, and we are heading the other way in this country.

I think we have tapped into something broader than the student loan program here.

Do any of you have any comment on that?

Mr. **Haworth**. I guess I could make a personal comment on that. I have studied abroad, and my field is European history and comparative government—don't ask me how I got into this business.

If I might take just one minute to tell one story, I was in Greenock, Scotland, outside of Glasgow, visiting the oldest shipyard in Scotland. This was 25 years ago. A young man, about 30–31 years old, took me through the shipyard to show me what they were doing. They were building submarines and other things there at the time. He had just returned from the United States after 2 years of graduate work in naval architecture at MIT, and he was the chief naval architect.

He was a school dropout by our standards. He had been taken out of the British system at age 14; placed, along with six or seven other students, with his company, preparing himself to be both a technician and later to become an architect.

He took me into a room that they had for visitors, where they had models of ships that had been constructed by these former students. He had spent 6 or 7 years of his life part of his time working carefully on the design of an exact model of a merchant ship; each part carefully milled so that it would work. You could take all the little pulleys and winches and things and turn them.

I have always remembered this because during that year I was in the United Kingdom, I spoke 40 different times in different parts of the north of England and in Scotland, and I saw other examples not quite as dramatic as the one I've mentioned where a great deal of emphasis is placed on the workman being proud to be a tradesman. I have studied in Scandinavia as well; you see vocational education stressed certainly in places like Sweden, where they do very careful handwork with wood in many of their secondary schools. We don't see much of that. I am afraid when we talk about disadvantaged students, especially many who for whatever reason will be in these kinds of technical jobs where this kind of professional attitude has not been developed and for which such an attitude is not prevalent in our society, we will find real trouble ahead for us in the 1990s.

Senator **Nunn**. I think you are right.

Mr. Ferguson?

Mr. **Ferguson**. If I might, yes, I agree totally with you. Here again—not to pick on accreditation—here again is an area of expected outcomes that we could look toward accreditation. Let's have them take a look again at academic excellence, at the outcomes of the training, and let's worry about some other method by which we can allow the schools to participate in Title IV funding; take the keys away from accreditation for Title IV funding. They still have a responsibility.

Senator NUNN. Should we make accreditation a public function rather than a private function?

Mr. FERGUSON. At the risk of getting hit in the back of the head with a chair, I think so—but that's a personal opinion.

Senator NUNN. Mr. McCormick?

Mr. MCCORMICK. I would recommend that you establish minimum Federal standards that schools have to meet to be eligible to receive Federal funds. I would recommend that we take a look at what, as a matter of Federal policy, we are willing to subsidize. And I just cannot believe in these times of budget deficits and at a time when you are having so much difficulty arriving at a reasonable Federal budget, that we are literally subsidizing card dealing schools and dog grooming schools in this program, and why you can't draw the line somewhere and say beyond this point there is no Federal subsidy; you can have dog grooming schools if you want to, but we are not going to federally subsidize them. It is just not in the best interest of the country.

I think you ought to look at that as well.

Senator NUNN. Senator Roth?

Senator ROTH. I think you make a very interesting point, Mr. McCormick.

One of my concerns is that I think much of the fault lies right here in Congress. For the best of intentions we seek to do certain things, but we don't look at the consequences. And it seems to me that is what happened when we extended student loans to various types of training; we did not seem to understand that there were inadequate facilities to ensure that those programs were going to work.

To me it is shocking that at least two of you gentlemen say that the accreditation system has more problems with accredited schools than with unaccredited. What this shows is that our program, which had the best of intentions, has allowed room, in certain circumstances, for money-making machines. That bothers me, Mr. Chairman. Time and again, we see that Congress enacts a program, which is highly motivated but enables the unscrupulous to devise a means to get a path straight into the Treasury.

When we started this program, we did not have any serious problems with accreditation. We had the "mom and pop" type trade schools which worked all right. But when unscrupulous operators tried to get their hands into the U.S. Treasury we got into real difficulty.

I do not want to see public accreditation of our colleges and schools; I think that is basically a matter for local control. At the same time, training in various trades is a different matter.

Let me ask you gentlemen this question. We have various other programs of training. I think one of you even mentioned them. You've got the veterans, you've also got the JTPA. Do we have the same problems in those programs?

Mr. FERGUSON. In Florida, we have taken over licensure of JTPA problems; yes, sir, we do. One of the things we found down there is

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that someone can come into a local PIC, Private Industry Council, bid on the training—he was talking about truck driving. We had one bid on training truck drivers; they got the bid and had to go borrow a truck. So, yes, sir, we have the same problem with the JTPA.

But back to the Veterans Administration, I worked with State approval before I got into licensure. The Veterans Administration does exactly what Mr. McCormick is saying. They make funds available for specific programs. They have guidelines. Accreditation is really not the key factor for the Veterans Administration, or it wasn't back then, and they say "We will pay for specific things to occur."

As part of my testimony, I wrote a letter to the IG, Jim Thomas, asking that he consider looking at our licensing agency to do exactly what you are talking about—give us somebody—I'll house them; put them down there, and let them help me look at these programs.

I think there is a way to do it. I think there is a way to do it.

Senator Nunn. You are saying the VA is much better than the Student Loan Program in the way they administer?

Mr. Ferguson. Oh, absolutely.

Senator Nunn. Mr. McCormick, do you agree with that, or you don't get into that, I guess, that much.

Mr. McCormick. Well, I'm not familiar with the way the Veterans Administration actually certifies the school eligible other than the work that I have done with your Committee staff on that. But it appears that they eliminate a real sticky problem of accreditation by simply saying in order for a school to receive Veterans Affairs funds, certain standards have to be met. Now, how they develop those standards, I am not familiar with——

Senator Nunn. But they assume responsibility for their own program, in effect.

Mr. McCormick. That's right.

Senator Nunn. And they have a quality standard.

Mr. McCormick. And I think the Department of Education could go a lot further in assuming responsibility for the Title IV programs.

Senator Nunn. Mr. Haworth?

Mr. Haworth. We should observe one thing about the Veterans Administration program, though, and that is—and I went to school on the GI Bill when there were lots of us—there aren't that many veterans out there anymore. So the total number of people who have to be watched over by the V.A. is quite limited. So the scale of the problem is very different. That should be kept in mind.

Senator Roth. Well, the hour is late, Mr. Chairman. I want to express my appreciation to these three gentlemen. I think their testimony has been especially helpful.

Senator Nunn. I agree with that. It has been very helpful, and we hope you will continue to give us your suggestions. It is a long road ahead on this one. We've got a lot more investigating to do and a lot of recommendations to make as we go along. But we would appreciate your keeping us informed of your views.

Mr. McCormick, thank you very much, Mr. Ferguson, Mr. Haworth, thank you.

[Whereupon, at 12:45 p.m., the Subcommittee was adjourned.]

ABUSES IN THE FEDERAL STUDENT AID PROGRAMS

FRIDAY, OCTOBER 5, 1990

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:03 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Sam Nunn (Chairman of the Subcommittee) presiding.

Present: Senators Nunn and Roth.

Staff present: Eleanore J. Hill, Chief Counsel; John F. Sopko, Deputy Chief Counsel; Mary D. Robertson, Chief Clerk; R. Mark Webster, Investigator; Cynthia Comstock, Staff Assistant; Mariea Sweeney, Staff Assistant; Daniel F. Rinzel, Minority Chief Counsel; Carla Martin, Minority Assistant Chief Clerk; Blaine Phillips, Minority Staff Assistant, and Ellice Halpren-Barnes (Senator Stevens staff).

[Letter of authority follows:]

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive session hearings without a quorum of two members for the administration of oaths and the taking of testimony in connection with hearings on Abuses in Federal Student Aid Programs to be held on October 5th and 10th, 1990.

SAM NUNN, *Chairman.*
WILLIAM V. ROTH, Jr.,
Ranking Minority Member.

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. The Subcommittee will come to order.

This morning the Subcommittee continues its hearing on fraud and abuse in Federal student loan programs. Specifically, we return today to our examination of the effectiveness of state licensing authorities, private accrediting agencies, and the U.S. Department of Education in assuring that qualified schools participate in the Title IV student aid programs.

On September 12th and 13th, the Subcommittee heard evidence that suggested that these regulators, commonly referred to as the triad, did a very poor job of assuring quality education to the tens of thousands of students who annually participate in this program. The hearing record is, unfortunately, replete with evidence of inaction and ineptitude on the part of the Department of Education and the other components of the triad.

In analyzing these problems, the Subcommittee reviewed in the September 13th hearing a case study of the Culinary School of Washington. This school operated for approximately 10 years before declaring bankruptcy in January 1990. Testimony showed that the school had a history of serious problems concerning the quality of its educational program as well as its management of the Federal student loan program.

Despite these problems, the school's eligibility for millions of dollars of Federal guaranteed student loans continued until the day the school closed its doors.

In order to obtain their perspective on this situation as well as to offer them an opportunity to publicly respond to the numerous allegations that have been made against their management of the school, the Subcommittee had originally scheduled the owners of the school, Barkev and Mary Ann Kibarian, to testify on September 13th. Unfortunately, within 24 hours of being subpoenaed, both witnesses asked for continuances of their appearances. Mr. Kibarian alleged that he had experienced a sudden recurrence of stroke-like symptoms, and Mrs. Kibarian apparently had to take her mother to the hospital for surgery.

The Subcommittee granted their requests and rescheduled their testimony for today. This morning, we expect to hear from the Kibarians after a brief statement by our staff concerning new information which may have some bearing on the Kibarians' testimony today.

Our first witnesses this morning are Deputy Chief Counsel John Sopko and Staff Investigator Mark Webster, who will present additional information concerning the Culinary School of Washington.

I will ask you both to take the oath. We give the oath to all the witnesses before this Subcommittee. Do each of you swear the testimony you will give before the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. **Sopko**. I do.

Mr. **Webster**. I do.

Senator **Nunn**. Mr. Webster, would you like to lead off?

TESTIMONY OF R. MARK WEBSTER, INVESTIGATOR, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,[1] AND JOHN F. SOPKO, DEPUTY CHIEF COUNSEL

Mr. **Webster**. Thank you, Mr. Chairman. Good morning, Mr. Chairman and members of the Subcommittee.

As you will recall from last month's testimony, the staff presented a case study on the Culinary School of Washington and its owners, Barkev and Mary Ann Kibarian. This analysis revealed that the triad of State licensing, accreditation and ultimately the Department of Education, fell short of effectively and promptly overseeing the activities of the Culinary School. This allowed the Kibarians to take advantage of Title IV programs for 8 years, during which the Department's Inspector General repeatedly identified patterns of misrepresentations to Government agencies and noncompliance with program requirements by the school.

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[1] See p. 487 for the staff statement.

Subsequent to the last hearing, the staff has uncovered additional information that may be of relevance to the Subcommittee's review of the Culinary School of Washington as well as to Mr. Kibarian's appearance here this morning.

Since the last hearing, the former Culinary School comptroller, Hamid Tabatabai, has provided a statement to the Subcommittee staff concerning the school's payment of student loan refunds. In an apparent effort by the school to delay and conceal refunds, checks were backdated, stop-payment orders were made, and inaccurate records were prepared.

Mr. Tabatabai told the staff that in early 1988, he was instructed by Mr. Kibarian to ensure that all the refund checks were prepared within the 30-day time limit, even if he did not receive the list of dropouts until after the 30 days. In order to do this, he was instructed to backdate the refund checks so the payments appeared to have been made within the 30 days.

In November 1989, Mr. Kibarian asked him to provide him with a list of the refund checks which had not cleared the bank so a stop-payment could be placed on them, as the money was needed for other purposes—apparently to pay for the legal fees of Mr. Kibarian's attorney.

Mr. Tabatabai quit at this time, out of disgust with Mr. Kibarian's actions.

As you indicated, Mr. Chairman, Mr. Kibarian was excused from testifying on September 13th because of alleged medical problems. Mr. Kibarian's physician recommended he avoid stressful situations such as testifying before this Subcommittee.

To recap the facts as we know them concerning Mr. Kibarian's health, we have learned that on May 15th, Mr. Kibarian was examined by his personal physician because of a weakness to his face. He was subsequently examined by a neurologist who agreed that Mr. Kibarian probably had suffered a small stroke.

On May 17th, Mr. Kibarian was again examined by his physician, who could not detect any further symptoms and noted great improvement in his condition.

The staff previously reported that during the summer of 1990, Mr. Kibarian commenced a nationwide mass mailing, proposing to establish a new culinary school. The staff has now discovered that the University of Bridgeport in Connecticut seriously responded to this offer.

The staff interviewed the provost and vice president of the University of Bridgeport, Dr. Edwin Eigel, who said he met Mr. Kibarian on May 27, 1990, when Mr. Kibarian visited the university campus to discuss his offer to create a chef's program at the university. This was 10 days after his visit with his physician and less than 2 weeks after his alleged "stroke-like" symptoms.

Dr. Eigel was surprised when the staff informed him that the Culinary School of Washington was bankrupt. He said that Mr. Kibarian did not inform him that the Culinary School had lost its license to operate, lost their accreditation, and lost their eligibility for Title IV funding.

In a May 30 letter to Dr. Eigel, Mr. Kibarian proposed a meeting on June 1, 1990 to finalize an initial agreement to initiate "the program" on June 4, 1990. He asked for office space at the university, to begin his work on June 1. Mr. Kibarian included a signature line for Dr. Eigel, which indicated the agreement would be dated sometime in May of 1990.

Dr. Eigel confirmed that he met with both Mr. and Mrs. Kibarian on June 1st, and that they remained at the university throughout the following week, discussing their proposal to set up a chef's program at the university.

In a June 18th letter, Mr. Kibarian states that he has the names of 300 prospective students here in Washington. If Mr. Kibarian did recruit prospective students to attend the University of Bridgeport, he may have done so illegally.

Dr. Eigel said that he warned Mr. Kibarian that he could not recruit any students or send out any advertisements until he was licensed to do so by the State of Connecticut.

On September 6, 1990, Mr. and Mrs. Kibarian were each served a subpoena to testify before this Subcommittee on September 13th. Within 24 hours, Mr. Kibarian reported that the stroke-like symptoms had recurred. His physician could not demonstrate any objective findings.

In spite of his physician's recommendation to rest for several weeks, Mr. Kibarian sent the University of Bridgeport another proposal on September 18, including that the school provide living arrangements for Mr. and Mrs. Kibarian to initiate the program and begin to recruit students and faculty. In that letter, Mr. Kibarian proposed to start work on October 1st. He also agreed to travel to Bridgeport to finalize the contract and scheduled a meeting with university officials on September 21st, just 8 days after he had been originally scheduled to testify before this Subcommittee, but could not, due to his desire to avoid stress.

On September 19th, the day after Mr. Kibarian sent this proposal, his attorney wrote to the Subcommittee, reiterating Mr. Kibarian's doctor's request that in light of his medical condition, "for the immediate future, Mr. Kibarian should not be placed in any stressful situation."

In sum, since our last hearing on the Culinary School, the staff has developed further information concerning potentially fraudulent acts by the Kibarians, both while with the Culinary School and since its recent demise.

Through statements of the former comptroller, the staff has confirmed that Mr. Kibarian repeatedly manipulated the refund checks that the school was required by both HEAF and the Department of Education to make to students who had withdrawn from the school. Mr. Kibarian's actions became so egregious that the comptroller finally resigned in disgust.

Since the school's demise, both Mr. and Mrs. Kibarian have attempted to reestablish the culinary school, apparently without advising the University of Bridgeport or other individuals of the true nature of the operations of the Culinary School of Washington. Their activities both predate the last hearing and continued up to Friday, September 21st, 1990, a period during which Mr. Kibarian's health allegedly could not withstand the stress of testifying before this Subcommittee.

Mr. Chairman, that concludes our statement. We would be happy to answer any questions you may have.

Senator **Nunn**. Mr. Sopko, do you have anything to add before we go to questions?

Mr. **Sopko**. Nothing other than we would like to offer at this time certain records referred to in Mr. Webster's statement, including the affidavit of the comptroller, Hamid Tabatabai [See Exhibit No. 67.], as well as certain letters and correspondence that the University of Bridgeport has supplied to this staff during the course of their investigation. [See Exhibit Nos. 81–84.]

Senator **Nunn**. Without objection, they will be made a part of the record.

Senator Roth, do you have any comments at this time?

Senator **Roth**. No, I do not, Mr. Chairman.

Senator **Nunn**. Let me just ask a few questions here. It appeared at least for at time, as I understand your testimony, Mr. Webster, that the University of Bridgeport in Connecticut was interested in Mr. Kibarian's offer; is that right?

Mr. **Webster**. Yes, sir.

Senator **Nunn**. Did Mr. Kibarian ever tell the university officials about the bankruptcy of the Culinary School or about the financial difficulties?

Mr. **Webster**. No, he did not. When I talked to Dr. Eigel, he was unaware of the problems——

Senator **Nunn**. Dr. Eigel is the president of the school?

Mr. **Webster**. He is the vice president and provost. When I spoke with Dr. Eigel, he was unaware of any of the problems with the Culinary School. When I told him of the substance of our September 13th hearing, and that the Culinary School was in bankruptcy, had lost its licenses and eligibility for Title IV funding, Dr. Eigel was completely surprised; he didn't even know the school had been closed.

Senator **Nunn**. What kind of contract were they discussing, as best you know of? What was Mr. Kibarian going to get from the contract?

Mr. **Webster**. Mr. Kibarian sent a prospectus of projected income and profit to the university, attached to his May 30, 1990 letter. He proposed three classes every 4 months, or nine classes per year. This, according to Mr. Kibarian's calculations, would generate gross revenues of $1,890,000 and a net profit of $1,049,000, of which Mr. Kibarian would receive 42 percent, or $443,950.

Senator **Nunn**. How much of that would have been Federal money through student loans?

Mr. **Webster**. I don't know how much of that he proposed to get from student loans.

Mr. **Sopko**. He does not indicate, Senator, how much is student loans, but in his correspondence he says that they will be applying for student loans. But he does not break that out.

Senator **Nunn**. Would most of it, in your judgment, be coming from student loans?

Mr. **Webster**. In light of his past operations with the Culinary School, yes, sir, quite a bit of it probably would have come from applying for student loans.

Senator **Nunn**. He was projecting that there be a net profit of about 50 percent of gross, right?

Mr. **Webster**. I believe that's right, Senator, yes.

Senator **Nunn**. And he was going to receive, according to this, somewhere around 25 percent of gross himself, net?

Mr. **Webster**. Net, yes.

Senator **Nunn**. What was going to happen to the rest of the net?

Mr. **Webster**. Apparently, it would pay for expenses, and the rest would go to the University of Bridgeport. Exactly where that would have gone, I don't know.

Senator **Nunn**. Have you got a copy of the contract, or just the letter?

Mr. **Webster**. We have a copy of the contract proposal he sent to the university. [See Exhibit No. 81.]

Senator **Nunn**. Has that been put in the record?

Mr. **Sopko**. That was put in the record with the other documents. And Senator, he has attached a table—it is called Table 5 in the record—which breaks out the money he would make as well as the money University of Bridgeport would make for the next 3 years.

Could I also add, Senator, that he also discusses another money-making scheme that utilizes students to sell pizzas, munchies and fast food products from carts around the university with the intention to branch out into other businesses and other operations. This raised some question to the staff because this sounds a lot like the situation that arose when he was utilizing students, who were paying tuition, as employees at the Blue Plains Sewage Treatment Plant. The Kibarians, it appeared, were being paid the salary for those students, but the students were in essence paying the Kibarians to work at the sewage treatment plant. At that time they were basically just serving lunches and whatever to the sewage treatment workers.

Senator **Nunn**. So you signed up to go to school and learn a profession or a skill or a trade, and you end up working at the sewage treatment plant, and the money that would have been paid to you went to the school?

Mr. **Sopko**. That is the allegation that we heard, Senator. A former staffer at the school referred to this as nothing more than slave labor.

There is no sewage treatment plant mentioned in the University of Bridgeport scheme let me just add. There is mention of them selling from carts, et cetera, around the university, and I think he makes a reference to a couple of other cities up there, if I'm not mistaken.

Senator **Nunn**. What kind of risk in that proposal we are talking about with the University of Bridgeport was Mr. Kibarian assuming?

Mr. **Webster**. From what we could see in the paper work that he submitted to the university, there was no risk to Mr. Kibarian. There wasn't any indication he was investing any of his own money. In his proposal, the cost of each culinary class was over $40,000, of which the entire cost was borne by the school. The salaries of the culinary members are deducted from payments owed by the university to the culinary school.

Additionally, the university would provide room and board, office space, telephones, copying services, postage and $3,000 compensation bimonthly, but no more than $12,000 a month, over a 2-month period, to the Kibarians.

Senator **Nunn**. Were the Culinary School's advertising or recruiting practices ever questioned as to whether they were licensed to operate?

Mr. **Webster**. We have information from at least three States concerning their advertising practices. In an October 19, 1988 letter to Ray Pennell, the executive vice president of the Culinary School, the Ohio State Board of School and College Registration wrote: "It has come to our attention that you have initiated recruitment activities in violation of section 3332 of the Ohio Revised Code, and since you are well aware that registration is required in order to engage in recruitment activities, I can only assume these actions were done purposely and willfully."

On September 13, 1989, Sam Ferguson, the executive director of the Florida State Board of Independent Post-secondary Vocational, Technical, Trade and Business Schools, wrote a letter to Mrs. Kibarian. The letter asked Mrs. Kibarian to cease all advertising as a school immediately and cease the solicitation and enrollment of any students for purposes of training in the school for vocational purposes.

The State of Virginia also told us in 1989, the Culinary School was advertising and actually operating a class without approval in Richmond.

Senator **Nunn**. Senator Roth?

Senator **Roth**. I have no questions, Mr. Chairman.

Senator **Nunn**. I thank both of you for being here. We appreciate your good work.

Our other witnesses today will be the owners of the Culinary School of Washington Mr. Barkev Kibarian and Mrs. Mary Ann Kibarian. Mr. and Mrs. Kibarian are with us today to discuss the history of their culinary school from its beginning in 1978 until the school closed its doors in 1990.

If the Kibarians could come forward, please.

Mr. Matthews, you are the attorney representing Mr. Kibarian?

Mr. **Matthews**. Yes, I am, Senator.

Senator **Nunn**. And you will not be a witness as such; you will be here for representation.

Mr. **Matthews**. That is correct, Senator.

Senator **Nunn**. Okay.

I will ask the Kibarians, if you would, before you have a seat—we swear in all the witnesses before the Subcommittee, so if you will hold up your right hand and take the oath.

Do you swear the testimony you give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God.

Mr. **Kibarian**. I do.

Mrs. **Kibarian**. I do.

Mr. **Matthews**. Senator, before we begin, I would like to reiterate my request of September 19th——[See Exhibit No. 90.]

Senator **Nunn**. Could you pull that microphone up, please, Mr. Matthews, and if you would, give us your name and your firm and where you practice law, and then I'll ask Mr. Kibarian if Mr. Matthews is your attorney—is that correct?

Mr. **Kibarian**. Yes.

Senator **Nunn**. And he is also representing you, Mrs. Kibarian?

Mrs. **Kibarian**. Yes, sir.

Senator **Nunn**. Okay, thank you.

Mr. **Matthews**. I am Stephen Matthews. I am from the law firm of Schwalb, Donnenfeld, Bray & Silbert in Washington, D.C. I represent Dr. and Mrs. Kibarian and the Culinary School of Washington.

On September 19, I wrote a letter to Chairman Nunn and the members of the Subcommittee, requesting that the testimony of Dr. Kibarian and Mrs. Kibarian be held in executive session in light of Dr. Kibarian's medical condition. [See Exhibit No. 90.]

The staff in making its statement conveniently neglected to mention a review by a second physician just last week, Dr. Edelson, who is Dr. Kibarian's neurologist. He took MRI scans of the doctor in May and again in September. In his letter, Dr. Edelson said there is evidence of a second stroke, and that Mr. Kibarian should avoid stressful situations for the immediate future. [See Exhibit No. 91.] That letter was given to the Chairman and the Subcommittee on Tuesday of this week, and I respectfully request that today's session be held in executive session to minimize the stress to Dr. Kibarian in light of this medical condition.

Senator **Nunn**. Mr. Matthews, is there anything of a classified nature that is going to be discussed in the executive session that you know of?

Mr. **Matthews**. No, sir.

Senator **Nunn**. So your sole purpose for an executive session would be to avoid stress?

Mr. **Matthews**. To avoid stress and to avoid harassment of the witness. I have already informed the Subcommittee that both of my clients may well assert their constitutional rights to not testify, and in order to avoid embarrassment and harassment, I believe it would be preferable for that to take place in executive session.

Senator **Nunn**. Well, our Subcommittee does not harass witnesses. We may ask some questions that are tough enough where they think it is harassment, but it is not intentional.

Mr. Matthews, I have here a letter from I believe the doctor you referred to who wrote the letter of September 28th that I have here—and you are correct, this letter was written, and it says: "To Whom It May Concern, Regarding Dr. Barkev Kibarian (DOB 12-29-27). Dr. Barkev Kibarian is under my medical care and was seen by me on September 26, 1990. He has had a recent stroke which is documented by a magnetic resonance imaging scan. This is a lacunar infarct which is associated with hypertension and stress. I have told Dr. Kibarian that it would be to his medical detriment should he put himself under the stress of the forthcoming hearings. This is a fresh stroke and he should not put himself under any undue stress at least for a month. Sincerely, Richard N. Edelson, M.D." [See Exhibit No. 91.]

Is that the letter you are referring to?

Mr. **Matthews**. Yes, it is, Senator.

Senator **Nunn**. If I could ask the clerk to send a copy of a subsequent letter from Dr. Edelson that we have received, dated October the 4th. [See Exhibit No. 92.] Let me show it to Mr. Matthews, and then I will read it to him.

It is a letter dated October the 4th from the same doctor, Neurology Center, addressed to me as Chairman of the Permanent Subcommittee on Investigations, regarding Dr. Barkev Kibarian. It states:

> Dear Senator Nunn. This is a letter to clarify my note of September 28, 1990, addressed "To Whom It May Concern". In that memorandum, I stated that Dr. Barkev Kibarian should not place himself under stress for the arbitrary period of 30 days following the onset of his presumed stroke on September 1, 1990. The 30-day period should be from September 1, 1990. Thus at this point, from the information I have, he should be able to give testimony to the Senate Subcommittee on October 5, 1990. Sincerely, Richard N. Edelson, M.D.

Mr. **Matthews**. Senator, I would like to point out for the record that this is the first time I have seen this letter. I tried telephoning Dr. Edelson yesterday, and he did not return my calls. So this is new information to me and to my clients.

Senator **Nunn**. It does make you feel better about his health, though, doesn't it?

Mr. **Matthews**. No comment.

Senator **Nunn**. Before we begin this morning, I want to acknowledge that both Mr. and Mrs. Kibarian have requested through their attorney that this morning's session—and we have heard the request—be held in closed or executive session.

Under Subcommittee and Senate rules, such a request is within the discretion of the Subcommittee. As a rule, this Subcommittee as well as most committees of the Congress, hold their hearings in public session. The right of the people and the media to know what their elected representatives are doing is one that this Chairman and the Subcommittee have always taken seriously. When we don't have classified information, it takes a very unusual request for us to go into closed session. Only in the most exceptional of circumstances does this Subcommittee even consider closing a hearing to the public.

I would point out that historically, the Subcommittee has used closed hearings only in cases involving classified information or information that would involve a real and express danger to the life of an individual.

Since to my knowledge, today's hearing involves neither classified information nor information which if revealed would pose a potential threat to the life or safety of another person, I feel I must decline to grant the witnesses' request for a closed hearing.

Let the record reflect that I have considered this request, and without objection, it is my intention to deny that request. Senator Roth, do you have any comment?

Senator **Roth**. No; I subscribe to the ruling of the Chairman.

Senator **Nunn**. Thank you, Senator Roth.

In doing so, let me briefly comment upon two additional points raised by Mr. Kibarian's attorney in his letter requesting that we proceed in executive session.

It appears that the request is grounded upon Mr. Kibarian's alleged ill health and the prediction that the Kibarians would likely assert their 5th Amendment protection against self-incrimination.

Let me first indicate that the Subcommittee has considered the September 28th letter of Mr. Kibarian's neurologist, Dr. Edelson, which recommends that Mr. Kibarian not be subjected to any undue stress for at least a month. We take very seriously such requests and try always to be considered of a witness' potential health problems. That is why the Subcommittee granted Mr. Kibarian a 3-week continuance of his initial appearance and also why the Subcommittee contacted Dr. Edelson yesterday to discuss Mr. Kibarian's medical problems.

It appears to me, however, as Chairman, looking at both of Dr. Edelson's letters, that Dr. Edelson no longer believes there is any medical reason for Mr. Kibarian not to testify.

In addition, we also must view Mr. Kibarian's request in light of the needs of the Subcommittee to obtain information it deems essential to its investigation as well as other information or actions of a potential witness that may have bearing upon the sincerity and the legitimacy of the request.

In this case, we must view the merits of the instant request in light of the history of the Kibarians' prior dealings with governmental and other regulatory bodies. Staff testified on the 13th that its review of the records of the Culinary School showed the Kibarians had previously sought numerous delays and continuances with accrediting bodies, licensing agencies and the Departments of Education and Veterans' Affairs. The staff found this to be the modus operandi of the Culinary School in order to avoid governmental scrutiny.

A pattern of obfuscation and delay apparently existed until the very day the school closed. As an example, the District of Columbia Licensing Commission in a prepared statement for the hearing record noted that they charged the Culinary School with supplying false and misleading information concerning the move of their school in January 1990 which was determined to be for the sole purpose of avoiding a site evaluation by the Commission.

In addition, the Subcommittee had to weigh newly discovered information concerning the activities of the Kibarians since his alleged stroke last May. As was explained in the staff statement, it appears that since then both Mr. and Mrs. Kibarian have been actively negotiating the reopening of a new culinary school. This included Mr. Kibarian's planned travel to Connecticut on September the 21st, approximately 2 weeks after the recurrence of his "stroke-like symptoms" and 1 week after his initial date to testify before this Subcommittee. The purpose of his trip was to negotiate a multimillion-dollar contract with the University of Bridgeport.

So I guess, Mr. Matthews, we would have to say, that the Subcommittee has developed a healthy skepticism about your client's claims. We believe that Mr. Kibarian should be willing and able to withstand the stress and strain of this hearing since he obviously was able to plan extensive travel and negotiations concerning a new, lucrative school contract.

Certainly I think after Dr. Edelson's most recent letter, we feel that he should go ahead and testify.

Lastly I would note, and make the record abundantly clear, that although the Subcommittee fully respects the sanctity of a witness' invocation of the 5th Amendment right against self-incrimination, we do not view this as a right that can be invoked prospectively through an attorney before any questions are ever posed. In this case, there are many areas the Subcommittee is interested in exploring with both witnesses, and we would be remiss at this stage to close to the Subcommittee these potential avenues of inquiry solely upon the possibility that one or more of the questions could potentially force the witness to invoke the privilege.

As such, it is the intention of the Chairman to have the Kibarians testify this morning.

Mr. MATTHEWS. Senator, I have two further requests before we begin the testimony. One is that pursuant to Subcommittee Rule 11, I would request that cameras not be directed at the witness during testimony, on the grounds of discomfort, harassment, et cetera.

And number 2, I request that the witnesses be allowed to testify in full, one at a time. I don't want to switch from one witness to the next.

Senator NUNN. We will certainly try to oblige you on that last request as best we can. I'll try to go to Mr. Kibarian and complete his and then go to Mrs. Kibarian, but we may, after we complete examination of both of them, we reserve the right to ask interspersed questions. We always have to have that right.

As far as cameras are concerned, as long as we are in open hearing, we have no restriction on cameras unless there is danger to someone's life, and we have had no indication that that would be the case here today. I don't happen to see any cameras at the moment, so it may be a moot question.

TESTIMONY OF BARKEV KIBARIAN AND MARY ANN KIBARIAN, OWNERS, CULINARY SCHOOL OF WASHINGTON

Senator NUNN. Mr. Kibarian, what was your position with the Culinary School of Washington?

Mr. KIBARIAN. On advice of counsel, Senator, I respectfully decline to answer the question and assert my rights under the 5th Amendment of the Constitution.

Senator NUNN. Mr. Kibarian, what is your current position, and how are you currently employed?

Mr. KIBARIAN. On advice of counsel, Senator, I respectfully decline to answer the question and assert my rights under the 5th Amendment of the Constitution.

Senator NUNN. Mr. Kibarian, what is the relationship between the Culinary School of Washington and the Culinary School of Washington, Paris, Rome and Beijing, Inc.?

Mr. KIBARIAN. Senator Nunn, on the advice of counsel, I respectfully decline to answer the question and assert my rights under the 5th Amendment of the Constitution.

Senator NUNN. Mr. Kibarian, is it correct that 8 days after you were originally supposed to testify before this Subcommittee, you scheduled a trip to Bridgeport, Connecticut to negotiate a multimillion-dollar contract?

Mr. **Kibarian**. Senator on advice of counsel, I respectfully decline to answer the question and assert my rights under the 5th Amendment of the Constitution.

Senator **Nunn**. Mr. Kibarian, did you know about that planned trip when you told the Subcommittee and you represented to the Subcommittee that you were too ill to testify before us?

Mr. **Kibarian**. On advice of counsel, I respectfully decline to answer the question and assert my rights under the 5th Amendment of the Constitution.

Senator **Nunn**. Mr. Kibarian, is it your intention to continue to exercise your 5th Amendment right under the Constitution not to incriminate yourself by declining to answer questions that the Subcommittee may pose to you relating to you and your activities at the school?

Mr. **Kibarian**. Senator, on advice of counsel—yes.

Senator **Nunn**. Mr. Kibarian, we regret you are not going to be testifying because we have important legislative concerns here. We recognize, however, your right to invoke the protection of the 5th Amendment and decline to testify.

In light of your decision, I don't have any other questions. Senator Roth, do you have any questions for Mr. Kibarian?

Senator **Roth**. Mr. Chairman, under the circumstance, I shall not ask any questions. I would like just to point out, however, that this gentleman who is refusing to answer any question on the basis of the Constitution is a New York University marketing doctor of philosophy who, according to a newspaper article, parlayed his skills into the chairmanship of Georgetown University Management and Marketing Department in the 1960's.

I would just point out my concern that here is a man of obvious qualifications, now refusing to answer any questions is a matter of deep concern to me because this investigation affects thousands of students. I understand from this article that the Culinary School of Washington amassed more than $18 million in Federal grants and student loans—a tremendous amount of money. What a failure to do good. I regret that we are not getting the advantage of his testimony.

Senator **Nunn**. I share that concern, Senator Roth.

Mrs. Kibarian, I will ask you some questions now.

What was your former position with the Culinary School, and what is your current relationship with this school or any other affiliated school?

Mrs. **Kibarian**. Senator, on advice of counsel, I respectfully decline to answer the question and assert my rights under the 5th Amendment of the Constitution.

Senator **Nunn**. Mrs. Kibarian, what were your duties at the school? Were you responsible for financial matters or advertising or recruiting or curriculum, quality of education, licensing? What were your duties with the school?

Mrs. **Kibarian**. On advice of counsel, I respectfully decline to answer the question and to assert my rights under the 5th Amendment of the Constitution.

Senator **Nunn**. Mrs. Kibarian, Sharon Marburg submitted an affidavit to this Subcommittee. [See Exhibit No. 58.] In that affidavit, she says that in the fall of 1984, she responded to an ad in the

Washington Post for an administrative assistant position at the Culinary School. When Ms. Marburg went for the interview, she says that you looked at her résumé and saw that she was a French major and asked if she wanted to teach French even though she had no teaching qualifications.

Ms. Marburg states, "in the same breath, Mrs. Kibarian said there was an opening for the position of dean of the school, and she thought I might qualify."

What kind of qualifications, Mrs. Kibarian, should a person possess in order to be dean of the school?

Mrs. **KIBARIAN**. On advice of counsel, I respectfully decline to answer the question and assert my rights under the 5th Amendment of the Constitution.

Senator **NUNN**. Mrs. Kibarian, in your July 1989 catalog of this school, it says, "each site for class use is chosen for its well-equipped and professionally planned kitchen."

In her affidavit, Ms. Marburg states: "most outrageous were the facilities and primitive conditions under which I was supposed to teach and the students were supposed to learn. I had to meet my classes in local taverns, such as Bojangles and Abbey Road, where music was blasting, lighting was inadequate, and the smell of stale beer, smoke and vomit permeated the room. The class location kept changing, but never for the better."

Did you arrange for those classes to be held in those conditions?

Mrs. **KIBARIAN**. On advice of counsel, I respectfully decline to answer the question and assert my rights under the 5th Amendment of the Constitution.

Senator **NUNN**. Mrs. Kibarian, is it your intention to continue to exercise your 5th Amendment right under the Constitution not to incriminate yourself by declining to answer questions the Subcommittee may pose to you relating to you and your activities at the school?

Mrs. **KIBARIAN**. Yes, sir.

Senator **NUNN**. Mrs. Kibarian, we regret you are not going to be testifying because we have important legislative concerns here, but we recognize your right to invoke the protections of the 5th Amendment and decline to testify.

In light of your decision, I will excuse you now with no further questions, but I will ask both of you one final question, and Mr. Kibarian, I will start with you.

Do you feel badly that a lot of students have put a lot of effort and time into this and have not gotten an education?

Mr. **KIBARIAN**. Senator, on advice of counsel, I respectfully decline to answer the question and assert my rights under the fifth amendment of the Constitution.

Senator **NUNN**. Mrs. Kibarian, the same question to you. Do you feel badly that students by the hundreds and thousands have put money into this, time and effort, and have not gotten an education?

Mrs. **KIBARIAN**. Unfortunately, Senator, on advice of counsel, I respectfully decline to answer the question and assert my fifth amendment right.

Senator **NUNN**. Thank you.

I thank counsel for being here today.

The Subcommittee will now adjourn.

[Whereupon, at 9:30 a.m., the Subcommittee was adjourned.]

APPENDIX

ABUSES IN FEDERAL STUDENT AID PROGRAMS, PART 2: LICENSING, ACCREDITATION, CERTIFICATION AND ELIGIBILITY

STAFF STATEMENT
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

SEPTEMBER 12, 1990

I. Introduction

Mr. Chairman and Members of the Subcommittee, following our February hearings on Abuses in Federal Student Aid Programs, you instructed the Staff to continue to investigate the extent of waste, fraud, and abuse in the guaranteed student loan programs that are governed by Title IV, Part B of the Higher Education Act of 1965, as amended. As with the first hearing, we have focused this investigation on trade and proprietary schools, due to reports of sub-standard and nearly non-existent teaching programs; the suspect methods often used to recruit students; and the alarming default rate. In February, we heard of the tactics that some schools were using to victimize students and the American taxpayer. In this hearing, we will uncover how many of these unscrupulous schools are able to get into the Title IV system and stay in, thereby wreaking havoc and rupturing the dreams of so many underprivileged Americans.

According to the U.S. Department of Education, one in four college students uses the student loan program. As Secretary Cavazos described in his August 3, 1990, testimony to the Subcommittee on Education, Arts and Humanities, over $114 billion has been loaned to students since the inception of the Guaranteed Student Loan program in 1965. In 1990, almost $12.5 billion (in new money) will be loaned to 4.7 million borrowers, $53 billion of the total amounts loaned in the program will still be outstanding, and our outstanding defaulted student loans will reach $7.8 billion. In chart #1, you can see how the defaults and loan volume has increased dramatically since the inception of the program in 1965, with the most acceleration occurring from 1986 to the present.

One of the changes in 1986 that contributed to this surge in loan volume and defaults was the addition of trade or proprietary school students as Supplemental Loans for Students (SLS) recipients. Prior to 1986, proprietary students did not qualify for these loans. Their participation since that time has greatly impacted the system. For instance, GAO reported that their review of 1987 data showed that although proprietary school students accounted for only 22% of the outstanding loans in the Title IV program, they produced 44% of all defaults. Since 1985, the student loan default costs have almost doubled to reach the present $2-billion figure. Experts interviewed by the staff indicate two principal reasons for this dramatic increase in defaults and abuses of the system. The first major cause lies in the fact that a greater proportion of low-income students, borrowers with a higher risk of default, are now eligible for the program. Although the program was created to serve middle-income, as well as low-income students, it has since been refocused to serve primarily low-income students, as Federal grant and work study aid have not kept pace with rising college costs.

These same experts believe that such a risk is one that our Government should be prepared to take, since it is so important to our society that the poor and disadvantaged be given a chance to better themselves.

At the same time, the staff was told that another major factor leading to a higher default rate is the increasing proportion of student loan borrowers attending short-term, vocational courses of study in proprietary schools. Default data indicate that students who attend proprietary schools tend to default at a higher rate than those attending other institutions of postsecondary education, including the most comparable two-year public institutions: the community colleges. Proprietary school students are largely from low-income backgrounds, attend the schools for short periods, and have relatively low loan balances, factors which are related to high default rates. The U.S. Department of Education reports that, according to its national data on FY 1986 borrowers entering repayment, proprietary school students default at a rate that is twice as high as that for two-year institutions, and four times as high as that for four-year schools.

The ultimate question is whether proprietary schools have high default rates because their enrollees have these characteristics or because of factors relating to the schools themselves. It is the Subcommittee Staff's conclusion that the latter is true: We found that serious shortcomings in the current oversight system -- specifically, the licensing, accrediting, and certification processes -- have encouraged unscrupulous school owners to take advantage of the availability of Title IV funds because they know that the system is not set up to detect or catch fraud and abuse. One school owner commented about the ease in getting rich in the proprietary school business, saying that the 1980s were commonly known as the "opportune time to be crooked."

II. Methodology/Scope of Investigation

Schools become participants in the Title IV program if they meet three criteria: They must have a State license to provide postsecondary education; they must be accredited by an accrediting agency recognized by the Secretary of Education; and they must be certified by the U.S. Department of Education as having the financial responsibility and administrative capability to participate in the Student Financial Aid programs.

The Subcommittee began examining the scope of the abuses in the student loan program by gathering extensive information and documentation about each of the above-named requisites for participation in the system. In the process, we interviewed proprietary school owners; accrediting agency officials; accrediting agency trade associations; officials at various State Departments of Education; officials at State Approving Agencies regarding use of veterans' education benefits at proprietary schools; U.S. Department of Education officials in the Office of Certification and Eligibility, the Office of Student Financial Assistance, Audit and Program Review Division, and the Office of Postsecondary Education, Higher Education Programs; and Library of Congress researchers who have been studying the student financial aid programs for years.

Approximately 100 major national accrediting agencies are recognized by the Secretary of Education. However, only seven of these 100 agencies accredit the majority of proprietary schools. From these seven agencies, we subpoenaed and reviewed thousands of pages of administrative documents and case files on approximately 50 proprietary schools. The accrediting agencies that we worked with are: the Accrediting Bureau for Health Education Schools (ABHES); the Accrediting Commission for Continuing Education and Training (ACCET); the Association of Independent Colleges and Schools (AICS); the National Association of Trade and Technical Schools (NATTS); the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS); the National Home Study Council (NHSC); and the Southern Association of Colleges and Schools, Commission on Occupational Education Institutions (SACS-COEI).

Our decision to focus on these seven accrediting bodies was reinforced by an August 27, 1990, letter to several accrediting agencies from the U.S. Department of Education, Office of Postsecondary Education. In this correspondence, the Department stated that, according to 1988 data, half of the default volume is accounted for by students who attended fewer than 70 of the approximately 8400 accredited institutions. (See Chart #2.) Those 70 institutions are accredited by only seven of the more than 100 major national institutional accrediting agencies. The Subcommittee staff examined these seven agencies.

Finally, from the U.S. Department of Education and State Departments of Education, we obtained and reviewed the school files which corresponded to the accrediting agencies' school files. We interviewed students, toured schools, and observed an accrediting agency site evaluation team inspecting a school for accreditation renewal.

The Subcommittee staff, with the assistance of the U.S. General Accounting Office and the U.S. Department of Education Inspector General's Office, has endeavored to compile reliable national data regarding the specific influences on increases in student loan defaults. We had asked the Department of Education for particular data and statistics relating to default rates by accrediting agency, but we were told that this information had never been compiled and therefore, was not available. After we learned this, we used some of the raw data from the Department of Education and the Inspector General's office to compile statistics showing the increasing financial strength of accrediting agencies over the past several years; the default rates of schools, organized according to accrediting agency; an analysis comparing the numbers of schools that apply for accreditation and the numbers that actually become accredited, for each accrediting agency; and a list of proprietary schools which, individually, have over $1 million in defaults.

III. How Schools Get In and Stay In: The Triad

Proprietary schools become participants in the Title IV program by following the same procedures as traditional two- and four-year colleges and universities. The Higher Education Act of 1965, as amended (ACT), outlines the requirements which institutions of higher education must meet to participate in Student Financial Assistance (SFA) programs.

Before an institution can participate in the SFA programs, it must go through a three-tier process, commonly referred to as the triad. First, the institution must obtain a State license to provide postsecondary education. Second, the institution must be accredited by an accrediting agency recognized by the Secretary of Education. And third, it must be certified by the U.S. Department of Education as to its financial responsibility and administrative capability to participate in SFA programs. The manner in which the Department of Education considers these three components in granting participation in Title IV programs is referred to as the accrediting agency recognition process, the institutional eligibility process, and the certification process.

A) Licensing:

When a new proprietary school opens, the first priority is to obtain a State license to provide postsecondary education. In many States, the school technically may not open for business without it.

Each State sets its own licensing requirements and standards for quality of education. Under our system, the power to set and to regulate the quality of education is generally left to the States. Since the laws differ amongst the States, the Subcommittee selected several States and analyzed their requirements for licensing proprietary schools. These included Florida, Georgia, Illinois, Virginia, and the District of Columbia. A brief summary of Florida's and Georgia's requirements are listed here, with additional testimony by Florida and Illinois State education officials to come later in the hearing.

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The process for a proprietary school to be licensed in Florida begins with a school official's completing an application and submitting it to the Florida Department of Education, State Board of Independent Postsecondary Vocational, Technical, Trade and Business Schools (Board). The application is reviewed for completeness, and, if it is approved, the school is granted a temporary license and is scheduled for an on-site review of the campus. This temporary license serves only one purpose: as proof for the school in its application for local zoning. The license does not allow the school to advertise, recruit, or enroll students. During the on-site review, the Board reviews the school's current catalog; the forms for permanent student records, including attendance and tardiness forms, exams, and other forms showing academic progress; the enrollment agreement; and whether the stated entrance requirements are met with documentation. The Board also checks the class schedules, curriculum, textbooks, and lesson plans and makes sure that these match what is stated in the catalog. The physical facilities are also examined, including the library, labs, equipment, audio visuals, test materials, and safety equipment. The tuition amounts are reviewed, as well as the type of advertising used, teacher qualifications, placement and guidance counseling, and the licensing of the agents who promote the school.

After the on-site visit is complete, the visiting team prepares a report and advises the school of whatever deficiencies are noted. Once a school presents proof of compliance, a provisional license is issued. This entitles the school to actually open for business and to advertise, recruit, and enroll students. The provisional license is valid for one year only; and within six months of issuance, the Board will schedule a verification visit to assure that student records are being kept, that teachers have lesson plans, and that students are progressing satisfactorily. If the school is in compliance, a regular, one-year license is issued. From that point on, the school must submit proof of catalog printing, school financial data, placement data, and completion statistics for annual license renewal. However, if, during this verification visit, serious violations are found, the school can be placed on probationary status. If the school fails to remedy the violations, the provisional license may be terminated early, or the Board may deny issuing the school's regular license.

In order for a school to open in Georgia, the licensing requirements are similar. Before a school opens for business, it must apply for and be granted a Certificate of Authorization by the State Superintendent of Schools. To obtain this Certificate, a school must pay a $100 non-refundable application fee, post a $10,000 bond, and provide written evidence of meeting criteria and standards specified by Georgia law. These minimum standards include: that the quality and content of each course or program of instruction are reasonable to achieve the objective for which the program is offered; that the institution has adequate space, equipment, library and physical facilities, instructional materials, and personnel to provide education of good quality; that the education and experience qualifications of directors, administrators, supervisors, and instructors are reasonable to ensure that the students will receive an education consistent with the objectives of the course program; that the school provide a catalog which describes the programs offered and their length, tuition schedule, and refund policy; that the students are given credentials indicating successful completion of the program; that records are kept indicating the students' attendance, progress, and performance; that the school is financially sound; that the advertising is not deceptive, misleading, or unfair; that the school has fair cancellation and refund policies; and that the school owners, directors, administrators, staff, and instructors are of good reputation and character.

Finally, an on-site visit will be made before initial authorization. Applications will be evaluated by the State Superintendent of Schools and reviewed by the Proprietary School Advisory Commission. Upon recommendation of the Commission, the Administrator grants authorization.

B) Accreditation:

The second step schools must take to become eligible to receive Title IV funds is to gain accreditation from an accrediting agency recognized by the Secretary of Education. Accrediting agencies have long been a part of the educational structure in the U.S. They were created to review institutions and to give approval or "accreditation" to those schools which offered quality educational programs. Originally, accreditation was given only to confer recognition among peer educators. It was thought of only to be an honor and had nothing to do with Federal student aid funding.

In the 1960s, however, accreditation took on new responsibilities when the Higher Education Act was passed. The Act made it a requirement for schools to be accredited in order for their students to qualify for the newly created student financial aid programs. The Department of Education relies upon accrediting agencies to assure "quality education" for Title IV funding because the United States has no Federal ministry of education or other centralized authority exercising single, national control over all educational institutions. The Secretary of Education recognizes and depends on independent accrediting agencies as reliable authorities on the quality of education and training offered by postsecondary institutions. To date, approximately 100 accrediting agencies are recognized by the Secretary. Only those schools accredited by one of the 100 agencies recognized by the Secretary are eligible to receive Title IV funds. Each agency defines and sets its own standard for quality education, since it is not defined by any federal law or regulation.

The States assume varying degrees of control over education, but, in general, institutions of postsecondary education are permitted to operate with considerable independence and autonomy. As a consequence, American educational institutions can vary widely in the character and quality of their programs. In order to ensure a basic level of quality, the practice of accreditation arose as a means of conducting non-governmental peer evaluation of educational institutions and programs. Private educational associations of regional or national scope have adopted criteria reflecting the qualities of a sound educational program and have developed procedures for evaluating institutions or programs to determine whether they are operating at fundamental levels of quality.

There are two basic types of educational accreditation: "institutional" and "programmatic." Institutional accreditation normally applies to an entire institution, indicating that each of its parts is contributing to the achievement of an institution's objectives. Specialized accreditation normally applies to evaluation of programs, departments, or schools which usually are parts of a total collegiate or other postsecondary institution. The unit accredited may be as large as a college or school within a university, or as small as a curriculum within a discipline. Some specialized accrediting agencies accredit specialized, vocational, or other postsecondary institutions which are free-standing in their operations. Thus, a "programmatic" accrediting agency may also function in the capacity of an "institutional" accrediting agency.

Accrediting agencies seeking recognition must submit petitions to the Department of Education's Accrediting Agency Evaluation Branch (AAEB). AAEB evaluates the petitions to determine if the agency meets the recognition criteria published in the regulations. AAEB reports the results of its review and submits its recommendations to the National Advisory Committee on Accreditation and Institutional Eligibility (NAC). Members of this 15-member advisory board are appointed by the Secretary of Education and serve staggered, three year terms. The NAC conducts semiannual public hearings, reviews the AAEB report, hears the agency's representations and third-party comments. The NAC decides whether to recommend to the Secretary that the agency be granted recognition. After the Secretary recognizes the accrediting agency, the agency is listed in the Federal Register. Institutions wishing to obtain eligibility to participate in the Title IV program must first apply to, and meet the standards of, a recognized accrediting agency. Each accrediting agency sets its own standards for quality educational programs. As such, the U.S. Department of Education is not directly involved in defining or setting a standard for quality education.

To receive Title IV funds, a school must be accredited by one of these agencies which are listed by the Secretary. The procedures may vary slightly from agency to agency, but the essential requirements are the same. Initially, a school submits an application, followed by an in-depth self-analysis of the programs offered, the teachers' background and qualifications, and the administrative capabilities. If, after review, the self-evaluation reflects a school which appears to meet the agency's standards, an on-site school visit is scheduled. For initial accreditation, a team of three to five is sent, composed of a mix of subject-area specialists, public institution representatives, proprietary school officials and/or owners, and one or more members of the accrediting agency staff. During the on-site visit, team members take a tour of the school, review school records, review student files, interview students, and observe classes in progress. Later, the team writes a report and recommends to the agency's accrediting commission whether the school should be accredited. This is a lengthy, time-consuming process which, from the application phase to the actual acceptance, can take up to one year to complete. If the applicant is successful, accreditation is granted for a period ranging from one to five years. At the expiration of the initial accreditation cycle, the above-described process is repeated.

C) Eligibility and Certification:

The third and final step a school takes to be eligible to participate in the Title IV program is to apply to the U.S. Department of Education, Division of Eligibility and Certification (DEC) for approval. This two-part process begins with the Eligibility Branch determination of whether a postsecondary institution meets the statutory definition of an eligible institution to apply for participation in Student Financial Aid programs and other Higher Education programs. Eligibility, therefore, looks at two criteria: that the school has a State license to provide postsecondary education, and that the school is accredited by an accrediting agency recognized by the Secretary. Other factors considered at this level are that courses meet minimum course length requirements, and that proprietary schools must have been in operation for at least two years.

The second part, certification, is the process whereby DEC determines that institutions meet the regulatory requirements regarding financial responsibility and administrative capability to participate in Student Financial Aid programs. The purpose of the certification process is to keep financially troubled and administratively deficient institutions out of the Student Financial Aid programs, so as to protect both the Department of Education and the students against loss. The Department of Education reviews information the schools provide about their staffing; work load; administration and coordination of student aid programs; the fidelity bond; student withdrawals; internal controls; verification; satisfactory student progress; and financial responsibility. Certification is the only process over which the Department of Education has complete control, and it is the last step that institutions must take to qualify for participation in the Student Financial Aid programs.

"Bad" Schools in the System

During our investigation, we found many examples of "bad" proprietary schools that got into the system and, despite their problems, successfully met the requirements for licensing, accreditation, and eligibility and certification. Some of the examples are:

*** A cooking school in Washington, D.C., required its students to perform unpaid work in the cafeteria of the Blue Plains Sewage treatment plant, as the main part of their so-called education. Classroom instruction was limited to only a few classes. The school had been accredited by two accrediting agencies. After a long history of student and teacher complaints, one accrediting body finally withdrew its accreditation; the other agency withdrew accreditation only two days before the school filed for bankruptcy.

*** An accredited truck driving school, with multiple branches located nationwide, enrolled close to 100,000 students between 1980 and 1988. Virtually all of these students paid for their tuition with Federal student aid funds. At just one location of this school, more than 13,000 out of nearly 31,000 students defaulted on their loans, amounting to nearly $27 million. Among the problems found at this and other school locations were: alteration of ability-to-benefit tests, so that unqualified students were admitted; enrollment of students with physical disabilities or criminal records that would prevent them from driving a truck or from obtaining a license to do so; and falsification of documents to appear to be in compliance with Federal course-length requirements. As a result of these abuses, the owner of this school is the subject of a $366 million civil suit brought by the U.S. Departments of Education and Justice, in which he is charged with defrauding the Federal guaranteed student loan program. Interestingly, the owner of this school was at one time a member of the board of directors of the accrediting body that accredited his schools.

*** A State agency reported that a Chicago branch campus of a Phoenix-based school enrolled 1,500 students and only 100 graduated. Of the 100 graduates, only 10 were able to obtain jobs in the field for which they trained. The Phoenix main school was licensed and accredited in 1981. Between 1983 and 1986, annual tuition grew from $2 million to $26 million and the school opened 20 branch campuses. At the time it closed in 1987, the school's students owed about $60 million in student loans. Although some students may have benefited, many more paid the price for the rapid expansion of this school's operations.

This school had other branch campuses that generated problems. The Brooklyn branch, for example, graduated only 40 students of the 1600 enrolled. Contributing to the lack of student success were problems such as a 90 percent turnover in faculty in one year and very low placement rates. Reports on the

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reviews of the Los Angeles, Chicago, and Gary branches described similar patterns of inaccurate and incomplete student records, untimely refunds, staff turnover, high attrition, and low placement. Students from two branches filed class action suits alleging that thousands of students were defrauded of Student Financial Aid grants and guaranteed loans because of pie-in-the-sky promises of employment opportunities.

The school closed completely in 1987, owing an estimated $10 million in refunds and leaving thousands of students with incomplete educations. The school admitted to owing an additional $5 million in unpaid refunds to the students who had previously withdrawn from classes. The greatest harm, however, is not financial. It is the demoralization in students' spirits and lack of hope for the future. As expressed by a state official, "The tragedy to the students is inestimable. They took people from the streets; they've wrecked ... their lives. They've (the students) lost faith in education."

*** The refund problem discussed in the prior example was also present in a Louisiana business college. In the 18-month period between January, 1988, and September, 1989, past-due student refunds grew from about $150,000 to nearly $1.4 million. During that same period, the school added five branches in three States, and the owners withdrew about $1.8 million from the school, $500,000 of which was used to purchase another school in Florida. Although Texas was successful in having some of the refunds paid for the branches operating within its jurisdiction, the school has filed bankruptcy, and it is expected that students who are due refunds will be held accountable for the full amount of their loans.

Theoretically, only schools that give "quality education" are meant to be included in the Title IV program. However, during the course of this investigation, we were told of numerous accredited proprietary schools that clearly did not provide quality education. Education officials from two different States told us that as many as 50% of all the accredited proprietary schools in their States are extremely problematic. Conversely, they told us that fewer than 10% of their non-accredited proprietary schools cause problems.

IV. Findings: The Triad Fails for Proprietary Schools

With the triad system in place, how is it that unscrupulous schools are able to exist and thrive within the system until the damage they cause is often irreparable? We found that these schools take advantage of a system that allows them to easily slip through the cracks.

Originally designed to operate in the traditional college and university environment, the present triad governance system, composed of State licensure, accreditation, and U.S. Department of Education, Office of Eligibility and Certification, has proven largely ineffective in the area of proprietary schools. The staff was told that the current system was originally constructed to regulate only publicly and privately owned, traditional, two- and four-year colleges and universities. As described to the staff, at the outset, the only participants in this self-regulatory system were educators. The "business" element of schools-for-profit was not a factor, nor was it contemplated. The system was based on the respect, honesty, and integrity of educators, with the primary motivation in education being the student's best interest. Those same presumptions are not always applicable to the current proprietary school industry.

The differences which separate trade or proprietary schools from traditional colleges and universities are dramatic. Colleges and universities are generally non-profit; the vast majority of proprietary schools are for-profit. Colleges and universities are academic institutions; proprietary schools are mainly commercial entities. Colleges and universities are owned publicly and privately; proprietary schools are primarily privately owned. Colleges and universities rarely change ownership; proprietary schools commonly change ownership. Colleges and universities do not employ commissioned marketing representatives; proprietary schools commonly use commissioned marketing representatives. Administrative and operational changes generally occur very slowly at colleges and universities; proprietary schools have a very fast-moving operating environment.

Many proprietary schools, by their nature, focus on making money, not on providing quality education. As the staff reported during the Subcommittee's previous hearing on abuses in Federal student aid programs, education has become big business. As the president of CareerCom School in Middletown, Pennsylvania, stated in the July, 1990, edition of "Education as Big Business," of the Independent Journal of Private Career Education:

> There is no way to escape being a slave to the quarterly report. Quality education and higher earnings are two masters. You can't serve both.

Some unscrupulous schools may view it as a waste of money to devote resources to teachers' salaries, books, or materials because this cuts into the profit of the school. One Illinois Department of Education official even suggested to us that schools are sometimes motivated to get away with the minimum and ENCOURAGE students to drop out of the programs, especially if the student has completed 50% or more of the class. At that point, a school is not required to refund any money to a student who drops out of the class.

Schools are marketed, bought, and sold in a system very similar to the multiple listing service used in the real estate business. Additionally, school owners often earn excessive salaries, salaries which are derived primarily from the schools Title IV funds. The "Education as Big Business" article also reported that the president of CareerCom in Middletown, Pennsylvania, earned $687,000 in salary and bonuses in one year, compensation he defends as necessary for a vocational school to be competitive. Otherwise, he says, an executive would leave to open his own school and quickly net $1 million a year.

The attitude of some of these school owners shows little regard for the intended purposes of the Title IV program and overall indifference to the interests of the Federal government in the program. Quoted in the "Education as Big Business" article, the CareerCom president states that he has never paid one dime for a school he has acquired and that all of his proprietary school's growth came without having to invest any of his personal money. Instead, the schools are principally funded through the Title IV program. On a similar note, a former Georgia school owner informed Subcommittee staff that the only reason he was in business was to to turn a profit. He stated, "I'm a businessman out to make a profit. Truly, I don't care about the well being of these students."

School owners readily admit that they considered the 1980s as "Big Bucks time" since, in actuality, there was no practical barrier to any school owner who wanted to participate in the Title IV program. In the July, 1990, "Education as Big Business" article, the CareerCom president stated that during the 1980s:

> [t]here was no barrier to entry. It was a time when anybody in that situation would have done what was done .... It was an opportune time to be crooked.

At every level, we found that the triad system is ill-equipped to deal with this type of profit-driven mentality.

A) State Licensing Is Inadequate:

Our review of the system revealed that, unfortunately, the effectiveness of the triad process breaks down where it begins, with state licensing. State licensing is not uniform, most States have very weak or minimal standards for licensing proprietary schools, and State licensing efforts are generally poorly funded.

State oversight and licensing responsibility for proprietary schools is fragmented. Not only do we have 50 separate State governments with unique laws, but each State may have as many as as 50 separate licensing bodies regulating the trade and proprietary schools in their jurisdiction. In Georgia, as many as 45 separate State agencies have oversight over proprietary schools, and all these agencies have proprietary schools with high default rates. In Florida, the Department of Professional Regulation has responsibility for cosmetology and barber schools, the Department of Transportation has responsibility for review of truck driving schools, the Department of Insurance for schools teaching insurance sales, and the State Board of Independent

Postsecondary Vocational, Technical, Trade, and Business Schools has jurisdiction for schools that do not fall under another agency's specialty.

Each of these independent bodies issues licenses based on their own standards, without any recognized uniform minimal standards for quality education. While the Department of Education continues to rely on State licenses as a stamp of legitimacy, there is no consistent definition of the educational prerequisites for licensing.

Even aside from the lack of uniformity, a review of the different State standards for licensing is equally alarming. As the Office of the Inspector General for the U.S. Department of Education noted in their July, 1990, draft report, "The Department's Process for Recognizing Accrediting Bodies Needs Improvement," the requirements for becoming legally authorized to provide postsecondary education in a State range from simply filing and receiving a general business license to being evaluated and approved by State boards of education. In some States, an institution can merely show that it is accredited for a license to be issued. In the Inspector General's draft report, they referred to a recent study by the organization of State Higher Education Executive Officers, which stated that to become fully accredited, some accrediting agencies require that the institutions obtain nothing more than a State license. As a result, the States and the accrediting agencies are, for the most part, relying on each other as a requirement for full approval, and the Division of Eligibility and Certification is relying on both of them as a prerequisite for determining eligibility. At this point, Mr. Chairman, we need to stress that the IG's report is only a draft and that the Department of Education has not yet had an opportunity to comment on the report.

We were also told that States often view proprietary schools as stepchildren and do not allocate adequate resources for oversight of these schools; rather, the States devote most resources to primary and secondary education and colleges and universities, leaving a gaping hole regarding proprietary schools. For example, in Georgia, the legislature funds only two employees to review proprietary school applications and qualifications. Similarly, the Florida Department of Education employs only one part-time attorney to represent the State in licensing actions. Given the lack of manpower, the staff was told that many States, such as Florida, are reluctant to aggressively pursue some "bad" schools, since it generally involves extended litigation. This, in turn, often leads to otherwise unwarranted compromises that allow bad schools to continue to operate.

State resources are taxed further because the disgruntled students from bad proprietary schools turn first to them to seek assistance and to voice their complaints. States are fielding most of the complaints about bad schools, because students do not know whom to consult within the U.S. Department of Education and may not know that an accrediting agency may be referred to when problems arise. Unfortunately, because many State laws regulating proprietary schools have such minimal standards, the States can do little more than forward the complaint to the accrediting agency or the U.S. Department of Education.

B) Accreditation:

Our investigation revealed that accreditation, like licensing, is ill-equipped to prevent fraud and abuse in the student loan program in the proprietary school arena. As noted earlier, problem schools continue to obtain accreditation with apparently little, if any, difficulty.

How is it that these problem schools are able to get by the most relied upon gatekeeper, the accrediting agency? Several main avenues have emerged.

Accreditation can be bought. We were told that owners know that they can get an unaccredited school accredited simply by buying an already accredited school and developing some connection, however tenuous, between the two. Accreditation is transferrable in the sale of schools. It is generally a rubber stamp of approval from one owner to the next. Donald Kaufman, the owner of the now-defunct Connecticut Academy in Georgia, admitted to the staff that he bought his school's accreditation by buying a school that was already accredited. Connecticut Academy was a small school in Connecticut that was accredited by NATTS and ABHES to teach medical assistant courses. Kaufman branched the school into Georgia and opened a campus. The branch was automatically accredited by NATTS and ABHES and given a state license based upon the good reputation of the original school in Connecticut. However, when a Georgia Department of Education official visited the Georgia school for license review, she found the school so sub-standard that the license was cancelled. She found, for example, that the school did not have proper medical equipment to teach the courses that had been already accredited by ABHES.

Branching. Branch campuses have emerged as a significant problem because they open and automatically become accredited as part of a school's main campus, thus avoiding a site visit by the accrediting agency. Branch campuses are also an exception to the Two-Year Rule, which requires a proprietary school to be in existence for two years before it may be determined as an eligible institution to participate in Title IV funding. Congress enacted this two-year rule to protect proprietary school students from fly-by-night institutions.

The Inspector General of the Department of Education, in his February 20, 1990, management improvement report found that a major problem is caused by schools who use the branch campus route to rapidly expand beyond their administrative and financial capabilities. Further, says the IG, the recent growth in the proprietary school industry, aided significantly by branch campusing, has placed a strain on both State licensing and accrediting agencies, to the point that their ability to control quality and ensure accountability has been significantly reduced. As the Subcommittee noted in the hearings earlier this year, the students and the taxpayers are paying the price for these shortcomings.

Branching is done by both unethical schools whose purpose is to profit at the expense of students and taxpayers, as well as by schools that inadvertently overextend themselves and are forced to close before completing the program of education. Students are harmed by both of these types of schools because they are held responsible for repaying loans for education not provided.

According to Federal regulations, the five criteria by which branch campuses could be excepted from the two-year rule are: the parent school is well established in the State as evidenced by having been in existence for at least five years under the same ownership; the parent school is an eligible institution; the parent school owns, operates, manages, or controls the branch and exercises acceptable supervision over the branch; the school requesting the waiver is accredited; and the branch meets all other requirements to receive Title IV funds, such as acceptable financial statements and refund policies. According to the Inspector General, however, these criteria are not relied upon in practice. Instead, if branches are licensed and accredited, either by full accreditation, or interim or provisional accreditation, they will generally be approved for Title IV participation.

The Inspector General described interim or provisional accreditation as providing coverage via the institutional accreditation of the main campus until all accreditation steps are completed, a process which can take up to 12 months. Although some accrediting agencies perform on-site reviews prior to granting interim accreditation, others require only an application. As a result, a school could submit a branch application, be granted interim accreditation and eligibility and disburse Student Financial Aid funds for up to a year without ever having an on-site review. Although accreditation does not guarantee financial and administrative capability or fully substitute for the two-year rule, full accreditation and the associated on-site reviews do provide at least some level of assurance that a school does exist and students and teachers are present.

Our investigation revealed numerous examples where branching had been used by schools to authorize participation in the student loan program, thereby side-stepping the review process. For example:

** In California, the owner of the formerly unaccredited Balin school chain bought a small drafting school in Atlanta, Georgia, accredited by SACS. SACS allowed the small Atlanta school, with only 40 students, to become the parent campus for the other California schools, which taught several hundred students. Now, all the campuses are eligible to obtain Title IV funds.

** The Georgia School of Bartending, accredited by ACCET, purchased the Nanny Institute of Beverly Hills, an unaccredited school in California. Immediately, the California school became accredited by ACCET and therefore, eligible for Title IV funds, despite the fact that the two schools were totally unrelated in purpose. And, soon after purchase, the schools' owner opened Nanny Institutes in Georgia and Florida, each campus also automatically accredited by ACCET and also eligible for Title IV funds. Obtaining the greatest amount of Title IV funds became a goal at the school. During an interview with the staff, a former recruiter for the school stated that he was instructed to sign up students for student financial aid, even if they had the ability to pay without the assistance. After working at the school for a short time, the recruiter quit. He said that he was disillusioned and tired of lying to poor, disadvantaged, vulnerable people.

** St. Mary's of the Plains in Dodge City, Kansas, is a church-affiliated school and, according to Kansas law, is exempt from all forms of State oversight, including licensing. It is accredited by the North Central Association of Colleges and Schools, a regional accrediting agency. Recently, St. Mary's agreed to manage a truckdriver correspondence school in Texas. Because of the licensing exemption of St. Mary's, any future truckdriver school branch in Kansas would also be exempt from a State license. The Texas truck driving branch was automatically granted accreditation and, therefore, eligibility for Title IV funds. Reportedly, ninety-nine percent of the Texas truck-driving students are now on Federal financial aid, despite the fact that the school has never been independently reviewed for licensing or accreditation. When the branch school on truck driving attempted to recruit from Georgia, the Georgia Department of Education refused to license their recruiters. A Georgia licensing official visited the school and decided that the educational programs fell short of even the most minimal educational standards. Upon completion of the course, the students received belt buckles instead of certificates as is required by Georgia law.

At least four major accrediting agencies have recently adopted policies that will, if implemented, take some initial measures to curb the growth of branch campuses. Two of the agencies have policies whereby free-standing institutions are allowed only one application for a branch campus to be in process at any one time. The policies of the third allow only two branch campuses for each main campus while the policies of the fourth allow only one in-process branch campus application for small schools and five for large corporate schools. While these policies are steps in the right direction, it is still far short of the increased attention that the problem demands.

Site examinations are failing to catch bad schools. Our review disclosed that schools often become pre-accredited, and thus eligible for participation in the student loan program, without undergoing a site visit. Branch campuses are accredited as part of main campuses, either without being visited at all, or by being visited long after the deadline has passed. Moreover, site examination teams can be, and have been, misled to a location other than the one they are meant to visit. For instance, South Florida Vo-Tech, formerly known as the Vocational Training Center in Miami, Florida, was accredited by SACS and supposed to offer nursing assistant and respiratory therapy courses. In reality, the "school" consisted of nothing more than a few rooms, one with a desk and another with a hospital bed. The other "medical" equipment in the "school" was sparse and/or didn't work. Strangely, the only way to enter this classroom was through a big hole in the dry-wall. A single, interior door was the only entry into an adjacent tape and record store, which sold largely X-rated material and was run by the school owner's son. The school's self-study document listed several clinical affiliations, including Jackson Memorial Hospital. When called, hospital officials had no knowledge of any arrangement with the school. We were told by a Florida Department of Education official that, evidently, SACS was taken to another location when they conducted their site visit.

School owners know that site examinations are often ineffectual in identifying problem schools. A witness the Subcommittee will hear from this morning, Mr. Tommy Wayne Downs, told the staff that he laughed after his school's site exam was over, because it turned out to be so easy. He felt confident that flaws in his school would not be detected, because none of the members of the NATTS site examination team had ever been to a barber school before, and none of them knew anything about cutting hair. Secondly, he stated that the school could hide bad student files, because the team members viewed files that the school selected for them, rather than taking their sample themselves, directly from the files. The files which the team members requested were not representative of the entire student enrollment; they asked only for five files of new students, five files from among the most recent graduates, and five files of students who had graduated in the previous six months. The team spent less than one day at the school to conduct the review.

We also found evidence that schools will move equipment, in one case, a whole library, from one location to another in anticipation of a site visit by State officials or accrediting evaluators. New York State officials told us that when they accompanied an AICS site visitation team to an Adelphi branch in Brooklyn, they found that a small room, which on a visit one month earlier they had found was being used as a storage closet, had been turned into a fully equipped library. Because these same State officials had just been to this branch, they alerted the AICS team personnel that it apparently had been brought in purely for the occasion of their visit. These suspicions were confirmed when they ascertained that none of the books on the sheleves were listed in the card catalogue file and, moreover, none of the books that were on the shelves had anything to do with the subjects being taught at the school. They subsequently reaffirmed that the library was nothing more than a "stage-prop" by going back to the school several months later, whereupon they found that it was gone. If the State officials had not been there to alert the AICS team, it is quite possible that this deception would have gone undetected. The State officials added that they also found a similar scam in another nearby Adelphi branch, regarding which they received a tip that all of the classroom training equipment had been taken out the day after their visit.

The purpose of school site exams is to verify the information that is contained in the school's application and self-evaluation report. However, there are other ways that verification can be conducted. A Florida prosecutor who recently convicted a proprietary school owner in Tampa commented that verification can start with just a few phone calls. She said that a call to check on the owner's background would have alerted federal or state education officials and accrediting agencies that the "education" offered at that owner's school was nothing more than a fraud. She said, "He had a totally fraudulent resume and one phone call would have exposed them." For instance, he represented that he had a doctorate degree. In reality, he had, at most, only a high school education.

Student complaints are often not considered in review or renewal of the school for reaccreditation.
Federal regulations require that recognized accrediting agencies have a procedure for the timely review of complaints pertaining to institutional or program quality. Further, the regulations require that the complaint procedure be fair and equitable to the person making the complaint and to the institution or program.

In a May, 1989, Inspector General memorandum on Accrediting Agency Complaint Procedures, it was noted that three proprietary school accrediting agencies reviewed by the Inspector General's office did have written complaint policies and procedures; however, they varied substantially in form and application. Although the complaint procedures were in effect, the agencies did not accept responsibility for complaints related to Title IV funding. Not a single one of the agencies regarded itself, nor did any want to be regarded, as a watchdog for the Title IV program. Reflecting this attitude, the accrediting agencies did not inform schools and students of the complaint procedure, few complaints were received, and the Inspector General had very scanty complaint files to review.

The Inspector General memorandum concluded that the accrediting agencies and the Department of Education have unsatisfactory mechanisms to inform the students and/or school staffs about how and where to complain if the need arises. Adequately informed students and teachers might dramatically increase the number of complaints flowing to accrediting agencies and to the Department of Education, thereby alerting Title IV gatekeepers of problem schools.

Dual accreditation is allowed. We found that schools often seek accreditation from two or more accrediting agencies to ensure that Title IV funds will continue to flow even if the school's accreditation is terminated by one of the accrediting agencies.

As an example, which will be reviewed in more detail in tomorrow's testimony, the Culinary School of Washington was accredited by both NATTS and ACCET. A review of their files indicated that when Culinary School applied for accreditation with ACCET, it was already under a NATTS investigation concerning allegations of fraud and misconduct. Five months after NATTS had filed a complaint to revoke their accreditation, Culinary School applied for, and eventually successfully obtained, accreditation from ACCET.

Even where there is an attempt to revoke accreditation, due process constraints regarding the revocation of accreditation can result in extensive litigation and substantial delays in cutting off Federal loans to a "bad" school. Schools are seeking protection in the courts and have been successful in getting injunctions continuing accreditation until the litigation is completed, which sometimes takes years.

Also, schools are seeking protection in the bankruptcy courts and have been successful in obtaining automatic stays and having accreditation classified as an asset. For instance, a student who attended the Florida College of Careers recently complained to the school's accrediting agency, AICS, that he was having trouble obtaining copies of his financial aid transcripts from the school. The school had closed, and he was seeking further schooling from a community college which required his prior transcripts for him to be eligible for additional financial assistance. AICS was powerless to help and explained that they could not take adverse action against the school, because the courts have classified accreditation as a protected asset under the bankruptcy laws.

Finally, expectations differ on the duties of the AAEB and the NAC, but there are also differing expectations on what the duties and responsibilities of the accrediting agencies are. The U.S. Department of Education expects accrediting agencies to give assurance that schools in Title IV programs will provide quality education to students. Part of that function is to monitor schools once they have been accredited, to assure that the educational standards are maintained. To a degree, this monitoring function translates into a policing function when the agency must take action against a school for failing to comply with established standards.

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Accrediting agencies, however, object to this policing function. It creates an inherent conflict that cannot be effectively overcome. Because once a school is approved by an accrediting agency, the agency assumes another role for the school: an advocate. Many agencies have formed powerful lobbying groups and political action committees and represent their schools in this capacity. The accrediting agencies argue that they are not regulatory agencies, that they lack the financial resources to perform the policing function, and they reject the burden placed upon them to oversee the appropriate administration of Title IV funds at schools.

ACCREDITATION IS NOT THE ONLY WAY TO CHECK QUALITY EDUCATION:

Although the Department of Education relies on accrediting agencies to assure that schools participating in Title IV provide quality education, not all federal agencies follow their example. Years ago, the Department of Veteran's Affairs discontinued their reliance on accrediting agencies to approve schools that offer quality education for veterans. The VA had discovered that after World War II, veterans were wasting their GI bill funds and other benefits at accredited schools that often failed to provide adequate education. To correct this problem, the VA implemented the State Approving Agencies program in place of accrediting agencies. It is designed to ensure that veterans' education benefits are spent on schools which offer education that is not a rip-off.

In the State Approving Agencies (SAA) program, Congress established a program that encourages the chief executive officer of each State to enter into a contract with the Federal government to monitor educational programs in the State and, using Federal law, regulation, and the contract, to determine which programs are eligible to enroll persons using veteran benefits.

Before a veteran may use their benefits at a particular school, the educational program must first be approved by the VA. The VA uses the State Approving Agencies system in almost all States, but in rare cases, where there is no SAA, the VA regional office performs the eligibility determination. Under the contract, States are re-imbursed for reasonable and necessary expenses of salary and travel incurred by employees and an allowance for administrative expenses. The VA obligates $12 million per year for the State Approving Agencies program.

There are now 67 State approving agencies that evaluate schools and programs. When significant findings that need correction are found within a program, the school is given the opportunity to make corrections. If these changes are not made, approval to participate in the veterans' program is withdrawn. In instances where gross violations are found, there are no due process procedures that the SAA must follow when removing schools from the approved list. Regarding withdrawal, schools are encouraged to voluntarily withdraw rather than forcing the issue.

Despite their similar interests, there is no communication between the State Approving Agencies and the Department of Education. Each SAA operates under Federal law, regulation, and the SAA contract, under which there is no requirement that the Department of Education be notified if the SAA pulls a school's approval. This means that a school could continue to participate in federally funded Title IV programs even after the school is found to be unworthy of receiving Federal funds through the Veteran's Administration. The same thing occurs in reverse: Title IV funds could be stopped at a particular school but no one at the Department of Education would contact SAA to warn them.

Several schools are still operating and participating in either of these Federal programs after having their participation in the other revoked. For example, staff were told that VA participation approval was withdrawn from an Indiana cosmetology school, which was NATTS- and ACCET-accredited. Officials from the SAA stated that they took this action when they learned that the school owner was moving her equipment around from location to location during program/site reviews because there wasn't equipment for all her beauty school locations. Despite those findings, the school is still accredited and is still receiving Federal student loan funds.

We spoke to several people who compared the effectiveness of the VA's SAA program to the Department of Education's reliance on accrediting agencies. Several opined that accrediting agencies have no accountability to the public, yet they effectively control who receives millions in dollars in Federal funds. Some of these experts think that public functions should never be trusted to non-public entities. Accountability is lessened, because there is neither public election to post nor budget control by the tax payer; nor are the entity's records disclosable.

We heard complaints that the large, national accrediting agencies are out for the dollars, rather than ensuring the quality of education. Unlike SAA's annual visits, we were told that accrediting bodies do not visit schools frequently enough (once every three to five years) to be sound in their evaluations.

The SAA program, though, is not without its problems. The programs vary from State to State; and some States administer weak programs. On the whole, however, many experts feel that, although the SAA system is not perfect, it is a much better system than that of relying solely on State licensing and accreditation for participation, as does the Department of Education.

C) U.S. Department of Education Criticism:

The U.S. Department of Education is directly involved in two parts of the triad: in selecting which accrediting agencies will be recognized by the Secretary of Education; and by certifying that the institution is financially and administratively qualified to participate in the Title IV programs. Our review shows that, in both aspects, the Department's oversight efforts fall significantly short of what is needed to effectively combat waste, fraud, and abuse in student loan programs.

1. **AAEB/National Advisory Committee on Accreditation and Institutional Eligibility:**

The National Advisory Committee on Accreditation and Institutional Eligibility (NAC) is a 15-member group of volunteers who are appointed by the Secretary. Their sole purpose is to review the qualifications of accrediting agencies in their applications to be recognized by the Secretary. Renewal recognition petitions are also reviewed by the NAC. The Accrediting Agency Evaluation Branch (AAEB) is the support staff for the NAC. They are the people who actually review the applications, gather details about the agency's qualifications for recognition, and make recommendations for the NAC to consider in their evaluations.

We found that the U.S. Department of Education exercises very minimal, if any, oversight over the accrediting bodies. They are considered completely independent, private bodies; and once they are listed in the Federal Register as recognized by the Secretary, Federal oversight is seemingly non-existent. Within the last 10 years, no accrediting agency has been removed from the recognition list.

The Accrediting Agency Evaluation Branch's (Evaluation Branch) procedures for reviewing accrediting agencies are inadequate to provide the quality education assurances that are required by Federal regulations. (34 CFR 602.10) The reviews by this staff of currently four individuals generally consist of a review of the petition and a two to three day site visit at the accrediting agencies and the schools. The reviews generally do not concentrate on how well the accrediting body has performed its responsibilities, but, rather, on whether its petition for recognition states on its face that it meets all of the criteria established by statute. In essence, the process of preparing the petition is nothing more than regurgitating the Federal requirements and stating that they are in compliance.

Little verification is conducted, and when it is conducted, the information discovered tends to be ignored. Even when the Department knows of an accrediting agency that is reportedly unreliable in assuring quality educational programs, appropriate action is not taken by officials to obtain and analyze all relevant information to perform an adequate review of the situtaion. Without this, the National Advisory Committee (NAC) cannot make the appropriate recommendation to the Secretary.

For instance, the Accrediting Commission for Continuing Education and Training, ACCET, a large national accrediting agency was recently recommended for continued recognition by the Evaluation Branch, even though the Evaluation Branch identified six serious deficiencies that affected the agency's ability to perform its responsibilities in an effective manner. The Accrediting Agency Evaluation Branch also obtained third-party information in the form of complaints by or on behalf of students enrolled at ACCET-accredited schools. These complaints indicated that the agency was not always accrediting quality schools and that deficiencies in the agency's accrediting procedures allowed inferior schools to slip through the process. Several students and their attorney were told that they would have an opportunity to address the NAC about their problems with ACCET, yet the Evaluation Branch did not notify them of the hearing, and they did not have an opportunity to present their position. However, the Evaluation Branch did not provide all of the third-party information to the NAC, because it did not consider it to be relevant. The Evaluation Branch recommended recognition to NAC, because overall it believed that the petition met the criteria in the regulations and that the deficiencies could be resolved within one year. Almost without exception, the NAC abides by the recommendations of the AAEB.

Also, the Evaluation Branch's review does not always consider all pertinent information within the Department itself regarding the schools accredited by the agency. For example, the Office of Postsecondary Education's Certification branch was monitoring 52 schools, because they failed to meet the financial responsibility and/or administrative capability requirements. However, the Evaluation Branch did not review this or other data within the Department because they had insufficient time to do so.

The NAC's time constraints are also debilitating. The NAC meets only twice yearly, with each meeting lasting only two or three days. Within this time, the NAC must review new petitions and continually review the 100 accrediting agencies already recognized.

In addition to information within the Department, we found that AAEB does not always consider relevant outside information such as the fact that one accrediting agency was named in a lawsuit brought by the California Attorney General. The lawsuit alleged, in part, that the agency accredited schools even though it knew or reasonably should have known that the schools did not comply with one or more of the agency's accreditation standards. Although the lawsuit was filed about the same time as the NAC hearings, AAEB did not use this information subsequent to the hearings so that the NAC could reconsider its recommendations to the Secretary to recognize the agency.

During interviews with Subcommittee staff, the Evaluation Branch staff stated that their responsibility under the law and the regulations is limited and that this prevents them from conducting more in-depth reviews of accrediting agencies. To

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support this position, they rely on the Education Department Organization Act, PL 96-88, which states that:

> No provision of a program administered by the Secretary ... shall be construed to authorize the Secretary ... to exercise any direction, supervision, or control over the curriculum, program of instruction, school, or school system, [or] over any accrediting agency or association, except to the extent authorized by law.

The also cite 20 USC Section 481(b) of the Higher Education Act of 1965 which states that the Secretary:

> ... shall not, as a condition of recognition ... impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this section.

The standards referred to in the statute are for the most part vague and do not define "quality education." Some of the standards are, "sufficient experience" in the area the agency seeks accreditation, whether the agency is national or regional in its "scope of activity," that the agency publishes material on its "purpose, scope, and operational information," that the agency's policies have "national recognition," that the agency has "sufficient resources to carry out its function," and has "integrity of purpose."

The Inspector General has found that AAEB management believes that the recognition regulations (34 CFR 602) do not provide them with the necessary criteria to hold accrediting agencies accountable. As a result, even when they are aware of an accrediting agency's apparent problems, they claim that the regulations leave them powerless to enforce standards on the agency.

As a witness will testify later in the hearing, her experience on NAC was frustrating because more than half of the people on it knew nothing about accreditation issues. The Secretary is not restricted by any limitations in who can be appointed. Some of the non-education people who have served include a sales manager, an employee of a California winery, and students.

Unless AAEB performs more in-depth reviews and considers all information available concerning an accrediting agency's performance, including how it handled problems with schools that it accredited, the Secretarial recognition process cannot be relied on by the public to identify agencies that are reliable authorities as to the quality of education and training. Further, if the Department cannot be sure that the accrediting agencies perform in an effective manner and cannot take appropriate action when deficiencies come to its attention, then it should consider eliminating or reducing its reliance on accreditation as part of the criteria for eligibility to participate in its student financial assistance programs.

2. Eligibility and Certification:

We also found serious shortcomings in Department of Education efforts in its second area of direct responsibility: eligibility and certification. According to officials within the Office of the Inspector General, the Department's eligibility review amounts to nothing more than a cursory review of the paperwork. No verification is conducted to ascertain if a school actually has a valid license and if the school actually is accredited. A finding of eligibility merely depends on the word of the school.

Once the Department's Office of Eligibility and Certification determines an institution to be eligible, it rarely revokes the eligibility for reasons other than the loss of a license or accreditation. When officials in the Eligibility branch were questioned about this by the Inspector General of the Department, they stated that they lack the statutory authority to revoke an institution's eligibility except where an institution loses its accreditation or its State license, or it closes. A revocation action against an institution would only be initiated if the accrediting agency or State licensing authority first completed such action. Again, we found an institutions' eligibility to participate in the student loan programs being effectively decided by accrediting agencies and States, rather than the Department of Education.

Another problem with the eligibility process is the Eligibility branch's inability to deal with instances where institutions have obtained a second accreditation as a safeguard against losing their first one. Loss of accreditation is normally one of the three conditions where an institution can lose its eligibility to participate in the SFA programs. However, if an institution maintains dual accreditation, then loss of accreditation from one agency will not result in loss of eligibility. In these cases, if the first accrediting agency withdraws its approval, the institution remains eligible by virtue of approval by the second accrediting agency. Although this may be a signal that the school has significant problems, the loss of accreditation does not trigger a Department of Education investigation.

The Student Loan Reconciliation Amendments that went into effect in 1989 included a section on the effect of loss of accreditation and may help to resolve some of the weaknesses concerning dual accreditation. The legislation provides for the loss of eligibility under the Act for any institution that has had its institutional accreditation withdrawn or who withdraws from its accrediting association when it becomes clear that its accreditation is at risk. However, even with this law enacted, there is still a significant time lag between the accrediting agency action, notice to the Department, and, finally, cutting off the flow of student loan funds.

We also found that the Department may fail to take corrective action, even when it discovers that it previously approved an ineligible institution. In one instance, the Inspector General found that an institution continued to participate in the student loan programs for several years and drew down nearly $470,000, despite the fact that the Department knew they were not eligible for any money. Other problems that we were told of included: incomplete list of eligible institutions in the Institutional Data System (IDS); misplaced or lost manual eligibility files due to lack of proper controls; and no practice of logging and tracking complaints against institutions, in order to assure resolution.

During our investigation, we were repeatedly told that the Department's Certification process also does not verify the information in applications submitted by schools that have been licensed and accredited and allows virtually all the schools that apply for certification and eligibility to get into the Title IV program. This year, the Inspector General's office determined that, during FY 1986 through FY 1988, about 2,087 institutions were reviewed by the Certification branch, with 2,024, or 97%, ultimately being certified. About 800, or 38% of these institutions were financially troubled and/or had administrative deficiencies. During this period, about 150 of the institutions closed with approximately 50 of the institutions closing abruptly before all educational services were provided to students. As a result, millions of dollars in SFA funds were wasted and the students were burdened with debt for loans for services they did not receive.

The Department has been critical internally, also. The Department of Eligibility and Certification's Financial Analysis Section found that its procedures were not designed to screen out financially troubled schools. As a result, some schools were certified to participate in the Title IV programs without adequate measures being taken to protect the government's and the students' interests. At times, surety arrangements are used for schools that were not, in fact, financially responsible. However, the amount of the surety arrangements the schools posted represented only a fraction of the potential loss in Federal funds in the event that the institutions closed. For instance, in fiscal year 1987, over 200 schools had surety arrangements totalling about $10 million, while Guaranteed Student Loans at risk were in excess of $200 million. Moreover, when schools with surety arrangements closed, the Department of Education failed to collect on them. In six cases, $1 million in surety arrangements were not collected. Moreover, Certification did not, in some instances, revoke an institution's certification despite its worsening financial condition.

We also found that the Department's Administrative Analysis Section certifies institutions even when they have clear indicators of administrative deficiencies. Two such deficiencies are withdrawal rates exceeding 33% and default rates exceeding 20%. However, institutions are apparently not denied certification no matter how far they exceed these tolerance levels. We found many instances where withdrawal rates were over 50%, and Certification did not take action to withhold certification or place appropriate restrictions on the school's participation in student financial aid programs. In these circumstances, Certification would certify the institutions, but would place the institution on their monitoring list. The monitoring list merely meant that the school was required annually to report the status of its excessive withdrawal and/or default rates. In addition, even though schools failed to correct or improve the withdrawal and/or default rates, certification was not revoked.

Institutions that add branch campuses do not undergo a recertification review since this is not required by regulations. This causes problems because the financial structure and administrative capabilities of institutions can be affected considerably by institutions that add branch campuses. The Certification branch does not recertify these institutions because the ownership remains the same, and no analysis is performed to determine whether the new institution is financially or administratively capable of handling the expansion. Education Department officials advised us that they agree there is a need to recertify institutions when they add branch campuses. The officials noted that they currently do not have the staff necessary to perform this function; however, they stated that they intend to take steps to make recertification a part of the overall certification control process.

Even aside from the branching issue, there are no requirements for any institutions to be recertified unless they undergo a change of ownership. After initial certification, institutions may never again be reviewed for their financial responsibility and administrative capabilities to participate in student financial aid programs.

In short, as it is now, the Department's Eligibility and Certification process amounts to nothing more than a paper shuffle, a rubber stamp of approval, regardless of the information that is submitted for review.

V. Other Contributing Factors Which Allow Problem Schools To Enter and Remain in the System

A) Lack of Communication:

There is little or no communication among accrediting agencies, the U.S. Department of Education and State licensing bodies and no verification of information contained in applications to each triad member. For instance, a State education official told us of a school that started a new program without prior State licensing approval and then falsely stated to its accrediting agency, and to the U.S. Department of Education, Office of Certification and Eligibility, that the school was licensed to offer the program. No one from the accrediting agency or the Department of Education took steps to verify the existence of the license with State officials.

There is very little, if any, inter-accrediting agency communication about terminated schools. When one accrediting agency terminates a school for failing to comply with standards, the other accrediting agencies are not put on notice. Where the agencies know of dual accreditation, they do not contact the other agencies to alert them of problems.

B) Self-regulation/Conflicts of Interest

The accreditation and licensing legs of the triad we have described both rely upon self-regulation. Self-regulation depends on the actual and perceived integrity of the process, and assumes that schools will be treated fairly, in accordance with consistently applied and uniform rules and regulations. Our review, however, has uncovered at least two potential problems in this regard.

First, even though it could be argued that accrediting bodies and State licensing agencies operate as "quasi agents" of the Federal government in connection with their Title IV program involvement, they are for the most part not subject to Federal standards of conduct vis a vis conflicts of interest. The type of potential difficulty this presents is illustrated by a case involving a State Board that oversees postsecondary vocational, technical, trade, and business schools, which participate in the Title IV program. According to a rough draft of the meeting minutes of this State agency, a Board member early this year actively participated in the deliberations regarding a pending license for a school, even though this person had a personal interest in the outcome. This Board member, due to a complicated series of transactions, was owed a sizeable sum of money for equipment that was in the hands of the school owner whose application was under review. Analogously, we found that it is not uncommon for an accrediting agency commissioner to also be a school owner, whereby he might face the possibility of dealing with matters regarding his own school. In the absence of any stipulated policy regarding recusal, such circumstances could easily create an actual or apparent conflict of interest.

Second, accreditation bodies and State licensing agencies rely on school owners in key areas of their functional responsibilities, which as one State official put it, is like putting the prisoners in charge of running the prison. In one State, for example, we found that four of the five industry-sector members of its board overseeing proprietary schools were also sitting members of four different accrediting commissions, i.e., one each from among ABHES, AICS, NHSC, and NACCAS. Thus, the possibility arises that a Board member might act on a State regulatory matter regarding a school that he had also acted upon as a member of an accrediting commission. Along these lines, for example, it is possible that a Board member could feel obligated to act favorably regarding a school accredited by the accrediting body on whose commission he sits and/or may have ruled upon on a previous occasion.

CONCLUSION

In short, based on our investigation, we believe that the system by which proprietary schools gain entry and retain access to Federal guaranteed student loans is seriously flawed and needs to be fixed. Until comprehensive remedial actions are undertaken, we are likely to continue to face the twin problems of hundreds of millions of dollars in losses and thousands of students from already disadvantaged backgrounds being set back further in their quest to become successful, contributing members of society.

Mr. Chairman, that concludes our statement. We would be pleased to answer any questions.

AFFIDAVIT

OF

TOMMY WAYNE DOWNS

My name is Tommy Wayne Downs and between 1984 and 1989 I was involved with the proprietary school industry; first as a recruiter, then as a student financial aid administrator and, finally, as a school owner. I worked for three schools between 1984-1986 and was part- or total owner of three others between 1986-1989. All of the schools with which I was associated participated in the Federal guaranteed student loan program and were accredited by agencies recognized by the U.S. Department of Education. I am presently serving a prison sentence for fraudulent acts committed in connection with the Federal guaranteed student loan program.

I am testifying today in the hope that my experience, both good and bad, may in some small way help this Subcommittee and the American people understand the problems that exist in the Federal student loan program.

My introduction to the proprietary school business was as a Nashville, Tennessee area recruiter for the North American Training Academy -- a National Home Study Council-accredited truck driver training correspondence school headquartered in New Jersey. During the four or five months I was with this school, I became the number one salesman in the Nashville area. In one three week period, for example, I signed up some 180 students and won a contest as a result. My commission for each student signed up ranged between $75 and $100, depending on whether the student became a Federal financial aid recipient and subsequently completed the program in which he had been enrolled.

In the proprietary school business what you sell is "dreams," and so ninety-nine percent of my sales were made in the poor, black areas of Nashville. I focused my attention on welfare offices and unemployment lines, and in housing projects where I became so familiar to residents that I was known as the "truck man." My approach to a prospective student was that "if he could breathe, scribble his name, had a drivers license, and was over 18 years of age," he was qualified for North American's program. My tactics included making the down payment for the prospect (the amount of which would be reimbursed to me out of the financial aid proceeds) and even going so far as to accompany the prospect to a pawn shop in order for him to obtain enough money for it. All of these tactics were approved, and even encouraged, by the school's owners and local management.

While successful with North American, I soon tired of its sleazy owners and local management and their "body count" operation. In response to a newspaper ad, I met with the owner of the Excel Business School just outside of Nashville and was hired to do the recruiting for his programs. This school was unaccredited, although I believe its medical assistant program was accredited by the Accrediting Bureau of Health Education Schools (ABHES).

Excel was totally different from North American. It was a clean operation and I was responsible for trying to recruit quality students. I focused my recruiting on recent or just-graduated high school students and developed a very successful marketing program targeted on the high school graduate who was still working at MacDonalds two or three years after graduation. Prospective students and their parents were invited to visit the school and were not misled into thinking that the training they would receive would qualify them for anything more than entry level positions. The school's owner was "a whiz" at getting graduates jobs after they had completed the training program.

After about 18 months with Excel, I was hired as a recruiter by the owner of a National Association of Trade and Technical Schools (NATTS)-accredited school, the International Barber School, which was located across the street. At this school, for the first time I got heavily involved with student financial aid. In fact, even though it was a violation of both NATTS and the U.S. Education Department's policies, I eventually did recruiting and financial aid at the same time.

In the course of doing financial aid, I learned -- through the financial aid service company the school contracted with in Chicago -- about one of the Federal student loan program's leading loan guarantors, the Higher Education Assistance Foundation (HEAF). In my dealings with HEAF, I soon discovered that it was "a school owner's dream" and a source of "almost instant money." In contrast, for example, to the Tennessee loan guaranty agency, which took from six weeks to three months to turn around a loan through its cooperating lenders, HEAF could process a loan application through its cooperating lenders in as little as six working days. I also found that HEAF was "loose as a goose" administratively and in its review procedures. Almost anyone could get a loan through HEAF if they could figure out how to fill in the blanks on its computerized forms and deal with its easy-to-satisfy, Kelly-girl-type administrative personnel.

After remaining with the International Barber School for about a year -- and tripling the size of its financial aid program -- I became associated with another individual who purchased the Rogers School of Hair Design in Nashville. The owner of this successful, NATTS-accredited school was going on the Tennessee Barber Board and could not continue this ownership while he served on it. Conversely, my partner in this purchase was just coming off of serving a term on the same Board. These circumstances surrounding the purchase are worth mentioning because the former owner was the one who did the State site visit required pursuant to the issuance of the new license we needed after having bought his school.

While the appropriate State authorities were notified of the purchase, my partner and I decided to ignore the NATTS and U.S. Education Department requirements regarding such notice. We did so because we did not want to risk an interruption in the flow of Federal financial aid to the school. We never did notify the U.S. Education Department and sent NATTS the paperwork some 6 to 8 months later, only because we had decided to change the name of the school from Rogers to the Guideliners School of Hair Design. Neither NATTS nor the U.S. Education Department ever questioned the fact that we had failed to notify them about the change of ownership. After we notified NATTS of the name change, it never exercised its option to do a site visit, as provided for in its procedures regarding such cases. To the best of my recollection, during the more than two years I was associated with this school, NATTS never conducted a site visit to it.

My new status as part-owner provided me with the opportunity to "test" some ideas that had been developing in my mind since I'd learned about student financial aid and the seeming ease with which loans could be obtained through HEAF and its participating lenders. I decided to invent a fictitious student -- complete with false name, address, and social security number -- and run it through the system for a guaranteed student loan (GSL). I chose a GSL, rather than a Pell Grant, because I knew that Pell Grants could be traced back to the U.S. Department of Education. I also remembered from my earlier experience with a U.S. Education Department Atlanta Regional Office visit to Excel that the staff person on that occasion only looked at Pell Grants and existing loan files. I reasoned that there would be no jeopardy from U.S. Education Department quarters since in my test of the system I had invented the student out of thin air and therefore there would be no such file. The Education Department and others who would visit the school do not have a list of student loan recipients and therefore must rely on the schools to provide them with their names and files.

My initial test of the system was successful and from that time (approximately March, 1986) through February, 1987, I submitted false GSL applications to HEAF that led to some $175,000 in loans through its participating lender, the Norwest Bank of South Dakota. I deposited these loan funds in a personal account I maintained at the Nashville Bank of Commerce and converted them for my own use. This scheme was accidentally uncovered when, in my absence, a secretary at Guideliners received a copy of a HEAF computer printout listing the school's loan transactions for the period. The secretary noticed that there were many names on the HEAF list that she did not recognize as being students and therefore called HEAF to ask if the correct list had been sent. HEAF looked into this matter and as a result an investigation was conducted by Federal authorities, which ultimately led to my being convicted of fraud in August, 1989.

At the same time I was conducting this fraudulent scheme at Guideliners, I came upon an opportunity to purchase a school in Pennsylvania, the Pittsburg Barber School. This school had just been re-accredited by NATTS and was available for $50,000 because its elderly owner wanted to retire. I bought it in January, 1987 and as with the case of Rogers, never notified either NATTS or the U.S. Education Department of the change in ownership. The State of Pennsylvania immediately relicensed the school and I immediately hooked up again with HEAF. I did not, however, run any bogus loans through this school because I wanted to keep it clean and I did not think I'd be able to keep track of such loans if I was commuting back and forth from Nashville.

Subsequently, another opportunity to acquire a school unexpectedly came my way and in November, 1987 I purchased the Harrisburg Barber School for $1,000. This school had also been accredited by NATTS, but was deeply in debt at the time of the purchase. Once I got into the records, I found out it was a real mess. The owner from whom I'd bought it, had never notified NATTS of his purchase from the previous owner 18 months earlier and the school was scheduled for a re-accreditation visit in December, 1987. I went to Washington to discuss this state of affairs with NATTS officials, who gave me an extension so I could straighten the school up.

Although the NATTS extension was for six months, the site visit did not take place until a year later, in November, 1988. While I worried about it greatly, I laughed after it was over because it turned out to be so easy. In the first place, none of the members of the NATTS site examination team had ever been to a barber school before and none of them knew anything about cutting hair. Secondly, the team members reviewed files that the school provided them, rather than taking their sample from the files themselves. Thirdly, the team members didn't ask for very much in the way of files to review -- five files of new students, five files from among the most recent graduates, and five files of students that had graduated in the previous six months. The team was at the school for one day from about 9:00 a.m. until 3:00 p.m.

While I respect NATTS and the good intentions of its staff and visitation team members, I think that the site visit process is flawed because of the very fact that some of the team members are school owners. Such owners, I believe, are not likely to be very hard on your school because they may find themselves being visited by a team on which you might be serving sometime in the future. In general, I also think that accreditation people are neither geared to or interested in being policemen whose mission is to uncover serious problems and wrongdoing.

At the Harrisburg school, even though I was already under investigation for committing the same offense at the Rogers/Guideliners School in Nashville, I began to do the bogus loans and in just two-and-a-half months (between May and July, 1988) ran almost $270,000 through the system. I was caught when an employee of a secondary market purchaser of student loans, the Western Loan Marketing Association, notified HEAF of discrepancies that had been found in loans originated in connection with the Harrisburg Barber School. I must point out that while HEAF did investigate this situation and alert the appropriate Federal authorities, HEAF people also approved the GSL applications from the Pittsburg and Harrisburg Barber Schools even after they knew that I was under investigation for my activities at the Rogers/Guideliners school.

In closing, I want to say that I have every reason to believe that I could carry out this same scheme if I were released from prison. It's simply too easy to get loans approved with no one checking any of the facts given on the loan application. For example, I believe, that even now HEAF, other guaranty institutions and Federal agencies, such as the U.S. Department of Education, do not have the authority to verify social security numbers on loan applications. It is also easy to use slum addresses and addresses in highly transient areas to avoid detection. In addition, as far as I know HEAF does little more in monitoring the status of a student loan recipient beyond sending out a form every few months asking the school to tell them about that student's current status. I figure I could check the right box and move a "ghost" student from program to program, extending his seemingly legitimate status for years and collecting loan after loan before anyone would actually audit the file to determine if the student even exists.

I do also have some suggestions on how to improve the current situation with proprietary schools. I think, for example, that policing of the industry is absolutely necessary. Since the accrediting agencies as presently structured are not capable of doing this, I suggest that a separate, independent entity within them be set up expressly to do enforcement-type site visits.

I also think that the U.S. Department of Education ought to be more enforcement minded. The Department employees I dealt with only seemed interested in checking that the "correct" boxes had been filled in on a given form. They were concerned only with the paperwork and not the substance of the student loans. This attitude has to change. The Department needs to be more aggressive in getting the important facts and figures. For instance, the Department should direct the guaranty agencies to do more verification of information on application forms and other official documents submitted by schools. I think schools should be required to submit monthly reports on their loans and that ownership changes should be more closely looked into than they have been in the past. I also believe that State licensing bodies need to tighten up their proprietary school-related policies and procedures.

In conclusion, let me just add that although I committed a serious crime against the government, I am proud of the fact that none of the students that ever attended my barber schools were ever hurt. They all got a good education -- probably as good as they could get for the tuition they paid. This does not in any way justify what I did, but it does to some extent separate me from the hundreds of other proprietary school owners who I know provide little, if any, education to the poor students that desperately need the skills their schools should offer. My only hope from this testimony today is that it may result in the development of a program that not only would have prevented my "paper" fraud, but also one that addresses the fraud committed daily against unsuspecting students by these other unscrupulous proprietary school owners.

Thank you very much for the opportunity to testify. I am more than happy to answer any questions you may have.

I have read, reviewed, and ititialled each page of this statement consisting of 12 pages, and I swear, to the best of my knowledge and belief, that the statements contained herein are true and correct.

Tommy Wayne Downs

Tommy Wayne Downs

Sworn to and subscribed before me
this 30th day of August, 1990.

Vivian K [illegible]

Notary Public

My Commission expires
10/31/1994

STATEMENT OF

JAMES B. THOMAS, JR.
INSPECTOR GENERAL
U.S. DEPARTMENT OF EDUCATION

Before the

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS

Regarding

Efforts Concerning Student Financial Aid Accreditation, Certification and Eligibility Processes

September 12, 1990

DEPARTMENT OF EDUCATION

Statement by

James B. Thomas, Jr.
Inspector General

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss the efforts of the Office of Inspector General (OIG) regarding the student financial aid accreditation, certification and eligibility processes used to determine which institutions may participate in Department of Education (ED) student aid programs.

Several years ago, OIG assessed the student aid programs as being the most vulnerable to fraud and abuse in the Department. This assessment was based in part on audits and investigations which disclosed major instances of fraud and abuse in the programs, particularly at proprietary schools.

In addition, these programs were identified by both the Office of Management and Budget and the General Accounting Office recently in their lists of most vulnerable Federal programs. Concern has increased by the well publicized problems with a large national guarantee agency - the Higher Education Assistance Foundation (HEAF) - but certainly did not begin with it. We have seen major proprietary schools such as Superior Training and Adelphi Institute go bankrupt in the wake of OIG audits and investigations owing ED and their students millions of dollars. Lenders, most notably First Independent Trust Co., have gone into liquidation, leaving a wake of financial disaster. Florida Federal Savings and Loan was ordered to pay ED $17 million after conviction of fraud in loan servicing. Third party servicers have had difficulties as well, including United Education Software which is in bankruptcy.

In recent years, we have been devoting about two-thirds of our staff effort - over 200 staff years - to the student aid area with a view toward recommending legislative, regulatory or management improvements intended to prevent potential program abuses from occurring. This effort has been coordinated with our continuing investigations, audits and inspections of individuals and institutions which recommend recovery of misspent funds or other administrative action by ED's program office or action by prosecuting authorities where appropriate.

We identified a number of issue areas in the student aid programs on which to focus our efforts and have issued a series of management improvement reports which include recommendations to correct systemic weaknesses that have led or could lead to recurring problems. In addition, we have completed, ongoing and some planned audits of the processes ED uses to allow participation in student aid programs and to monitor the compliance with applicable rules, as well as those processes the Department uses to take action against those schools which are abusing the programs, including removal from program participation.

We recognize that program abuse can be significantly reduced if problem schools can be prevented from participating in the student aid programs in the first place. We have been made well aware time and time again of the arduous, time consuming, resource intensive process involved in getting an abusive school out of the programs. Consequently, the issue areas we have focused on include the accreditation, eligibility, and certification processes which determine whether a school can participate in the programs.

Under this process, often called the Triad, a school must be accredited by an accrediting agency recognized by the Secretary of Education, must be licensed to provide postsecondary education in the state in which it is located, and must be determined eligible and be certified by the Department to be financially responsible and administratively capable to participate in the programs. The Department's role in granting a school the right to participate in the student aid programs consists of three processes: the accrediting agency recognition process, the institutional eligibility process, and the certification process. (Diagram attached).

While this may sound comprehensive in theory, we have found that in practice it is all too often a "paper chase," and overall the accrediting, eligibility, and certification system is not effective in protecting Federal funds from misuse or in protecting students. ED relies heavily on accreditation, but accreditation does not assure educational quality and fair dealings with students. ED relies on state licensure, but state licensure requirements vary widely, as do state resources devoted to policing schools. The Department's certification process is flawed and limited and it does not protect students because it is primarily a minimal review of the school's own representations about its financial and administrative condition. Department officials who make the decisions to allow participation in the programs perceive that they are not authorized to deny schools participation so long as they meet the minimal requirements.

We have identified problems related to the accreditation, eligibility, and certification processes in an issued audit report and several management improvement reports. In addition, we have three draft audit reports with Department officials for written comment. While I will describe the results of all of these efforts, it is important to note that with respect to the draft reports, the Department is just now in the process of responding in writing. However, as this work has progressed, we have been working informally with the ED program managers on corrective actions where possible.

I would like to present the highlights of our work in these areas, but I would like to point out also that the accreditation, eligibility, and certification processes are not the only ones in the student aid delivery system with problems. The delivery system includes as participants not only ED and the students and the schools and their accreditors and licensors, it also includes lenders, guarantee agencies, servicers, secondary markets, and auditors. (Chart attached). Obviously, if problem schools are allowed into the programs, we will find serious abuses of the programs at schools, and indeed we have reported many serious problems in our recent semiannual reports to Congress. As I have said, it is hard to get these schools out of the programs. We have also found problems with virtually all of the other participant groups in the programs. Despite these findings, however, in no way do I intend to imply that all or most of the proprietary schools or other institutions participating in the student aid programs are abusing them. Actually, most do a very good job, but we have seen abuse and in many cases it is with some of the larger participants. It is important to keep this in perspective.

We are working to address a variety of issues covering schools and other participants, however, the specific concern of these hearings is with accreditation, eligibility, and certification, so I will summarize our findings in this area. This work looked primarily at the system as it is and in that sense our recommendations are in a sense tune-ups for a system that may need overhaul. I will come back to this broader issue later.

Recognition of Accrediting Agencies

The Department of Education Organization Act precludes ED from becoming involved in matters related to educational curriculum. Accordingly, under the Higher Education Act, ED must rely on the independent accrediting agencies as authorities regarding the quality of education offered by postsecondary institutions that wish to participate in the student financial aid programs. The only control ED retains concerning educational quality is in the process it uses to determine which accrediting bodies it will recognize and in the requirement that these agencies be re-evaluated at least every five years.

In making decisions about recognition of accrediting agencies, the Secretary considers the recommendations of the National Advisory Committee on Accreditation and Institutional Eligibility (NAC) whose members are appointed by the Secretary. ED staff is responsible for reviewing information submitted by the accrediting agencies and written third party comments. The staff reviews and prepares a written analysis of all information it considers relevant and submits its report to the NAC. A public hearing is held by the NAC and petitioning accrediting agencies are invited to make oral presentations, as are ED staff and third parties. The NAC then reports its findings and recommendations to the Secretary, who makes the final decision regarding recognition or renewal of recognition of an accrediting agency.

Of 31 initial applications received since 1982, three have been denied. Of 170 renewal applications in the same period, only one has been denied. ED staff has never recommended that an accrediting agency's recognition not be renewed, even when serious deficiencies were evident. In only one case did NAC act counter to the ED staff's recommendation for renewal and not recommend renewal to the Secretary.

We found that ED's accrediting agency recognition process does not include adequate research and analysis to assure that only reliable agencies are recognized. ED staff analysis relied primarily on the representations made by the accrediting agencies in their petitions. Staff did not provide all third party information to the NAC. Information on accredited schools, such as high default rates and poor ability to benefit tests that indicated problems with the quality of education or abuses of the programs, was readily available in ED, however, neither the staff review nor the NAC hearings addressed these problem schools as part of the recognition process. As a result, both NAC and the Secretary made decisions without assurance that agencies were reliable.

Despite these weaknesses and the lack of assurances provided by the recognition process, ED uses the accrediting agencies' decisions as one of the two primary criteria to determine schools' eligibility to participate in the student aid programs. As a result, billions of dollars available to students each year through loans and grants may be at risk.

We concluded that it is time for ED to either strengthen the recognition process or significantly reduce it's reliance on the accrediting agencies. To improve the existing system, we are recommending controls to strengthen staff and NAC review. The staff should conduct more in-depth reviews of those accrediting agencies that accredit schools representing the greatest risk to program funds, and they should request third party information as a first step in the review process so that the information can be used in planning the review.

We are also recommending that ED develop written policies and procedures for reviewing recognition criteria and consider a weighting system to help the staff make appropriate decisions when an agency fails to meet critical criteria.

For NAC, we are recommending that ED staff provide members with written guidance detailing their responsibilities and procedures for reviewing and making determinations on the accrediting agencies' compliance with the regulations. We had found that NAC members were not always sure about the options available to them when considering whether an accrediting agency met all the recognition criteria, and NAC did not always make consistent decisions at the hearings.

Program officials are considering our draft recommendations in these areas.

The situation we found is not new. Eleven years ago, the General Accounting Office (GAO) reported that reviews of accrediting agencies' requests for recognition were for the most part inadequate, and concluded that adequate documentation and thorough independent evaluation was necessary to determine whether accrediting agencies merit recognition as reliable authorities on educational quality.

Institutional Eligibility Process

While ED has an eligibility determination process, the process is primarily to determine whether the institution is accredited and licensed. Thus, school eligibility is actually determined by the accrediting agencies and state licensing agencies -- agencies outside ED which have significant variations in requirements.

We have discussed concerns with the recognition process for accrediting agencies. ED officials responsible for the thousands of eligibility determinations made each year expressed concern over the quality of standards used by certain accrediting agencies, but believe their function is only to verify that an institution has accreditation, not to evaluate the quality or the variation of the accreditation. In some cases, institutions maintained dual accreditation and retained eligibility even after one of the accrediting agencies withdrew its accreditation. ED has rarely revoked eligibility of an institution except when an institution lost its accreditation or license or closed. Officials believe the statutes and regulations restrict their authority to revoke eligibility to those instances.

We also have concerns about state licensing. We found that some states only require an institution to be incorporated and to have obtained a business license to qualify as legally authorized to provide postsecondary education. In these instances, the state does not analyze or monitor the quality of the educational programs offered. Other states have independent educational agencies which specialize in curriculums. Some states require that a program be evaluated and approved by the state board of education.

We are recommending that ED propose amendments to the Higher Education Act to specify minimum standards accrediting agencies must use, analyze each state's criteria for licensing and propose minimum standards they should require institutions to meet for licensing, and take steps to resolve the issues when an institution's accreditation is revoked by one accrediting agency and retained by another. Program officials are considering our draft recommendations.

In its report eleven years ago, the General Accounting Office also reported concern that there were fundamental differences in the perceptions of the roles of the Federal government, the accrediting agencies and the states in the institutional eligibility process. GAO recommended then that the roles be clarified through appropriate legislative amendments.

In addition to these broad weaknesses in the process, we also found during our testing that three institutions were determined to be eligible even though they lacked the required accreditation or license. These three institutions received about $480,000 in Pell grant funds to which they were not entitled. Even when the Department became aware of the problem, it did not act quickly to revoke eligibility or to notify the Financial Management Service to cut off the flow of funds.

Coordination procedures are needed for promptly notifying ED's Financial Management Service to stop payment on accounts of all ineligible institutions. ED also needs to notify guarantee agencies immediately when an institution loses its eligibility to assure that no additional loans are guaranteed for students attending the institution. We found that during a nine month period, $1.6 million in loans had been guaranteed for 19 institutions for up to three months after their eligibility was terminated.

Since July 1, 1988, eligibility regulations require each institution to have its eligibility status updated at least every four years. However, ED has no plan to enforce this requirement. In December 1989, there were 4,555 institutions overdue for redetermination and no institution had ever been terminated for not responding to update requests from ED.

We also noted other deficiencies which negatively impact on ED's ability to monitor institutions and assure proper use of Federal funds.

- Controls were not adequate to assure individuals handling student aid at institutions had never been convicted of fraud involving Federal funds.

- ED cannot produce a complete universe of eligible institutions.

- ED could not provide us a number of files we selected for review because they were lost or misplaced.

We are providing recommendations to address each of these areas and program officials are considering recommendations in our draft report.

Certification Process - Financial Analysis

ED's financial analysis certification procedures are not adequate to protect either the students' or the government's financial interests. This is especially evident in those instances where a school closed before all educational services were received by the students. From October 1985 to June 1988, we estimate that 53 schools closed before all services were provided. As a result, as many as 10,000 students lost loans and grants worth about $30 million. We believe that if ED implements recommendations we have made, about $14 million will be saved annually because the students' and government's interests will be better protected.

ED is responsible for reviewing each school's financial statements to determine whether the school is financially responsible before being certified to participate in ED programs. From October 1985 to September 1988, 2,087 schools applied for certification, of which 2,024 or 97% were certified.

In general, an institution is considered to be financially responsible if it is able to provide services described in its official publications, provide the administrative resources necessary to comply with the requirements of the regulations and meet all of its financial obligations. An institution is not considered financially responsible and can be denied certification if it has such problems as a history of operating losses or a ratio of current assets to current liabilities of less than one to one. However, even in these cases, ED may consider an institution financially responsible and certify it if the institution provides a surety arrangement.

We found that the surety arrangement system was essentially a mechanism for assuring that schools could be certified. In addition, the surety arrangements were generally inadequate to cover the student aid at risk and they were not required for all financially weak schools.

Indeed, in the 53 cases cited above, ED had surety arrangements with only seven of the schools, and the arrangements covered only about 9% of the total guaranteed student loans at risk. They did not cover ED's cash advances for Pell grants. Further, only one of the surety arrangements was collected because controls were not adequate to assure claims and collections were made when schools closed.

As of October 1988, ED was monitoring the financial progress of about 800 financially weak schools, that is, looking at the schools' financial statements and comparing their progress to the prior statements. Of the 800 schools, ED required only 239 to obtain surety arrangements and, of these, only about $10 million or 5% of the $200 million in guaranteed student loans was underwritten. Most institutions were required to obtain surety agreements between $10,000 and $50,000 regardless of the extent of their participation in the student aid programs.

We reviewed 29 closed schools that ED had been monitoring and found there were clear indications of financial problems either initially when the school applied for certification or during subsequent financial analyses. In 21 of the 29 cases, the schools failed to meet one or more of the financial responsibility tests. Instead of denying the schools certification, ED certified them based on the school's agreement to either obtain a surety arrangement or submit to annual financial monitoring.

As an example of the difficulties this presented, the financial statements of one school that applied for and received certification showed a net loss of $3,400 and a current ratio of 1 to 1.2. ED certified the school on the condition that it obtain a $20,000 performance bond. The school's condition worsened during each of the next three years until its statements showed a net loss of $377,000 and a current ratio of 1 to 2.4. Instead of denying recertification, ED increased the bond requirement to $100,000. While there were complaints in newspapers and on television about the training promised not being received, ED did not indicate that these conditions were taken into consideration during recertification. About one year later, the school declared bankruptcy leaving students with loans worth about $716,000 unable to complete the education they had paid for. ED filed a claim in the bankruptcy court for about $1 million for cash advances it had made for other student financial aid, however, the school had no assets. ED never collected the $100,000 bond.

We recommended implementation of a policy denying certification or recertification to schools that do not meet the financial responsibility tests and do not obtain adequate surety coverage. ED program officials agreed to do this for initial certification, but believe that they cannot deny certification to schools that are already certified without allowing the schools to post surety pending termination proceedings. They also believe that the amount of surety should be tied to the "unearned" portion of the tuition and fees in accordance with the doctrine of partial performance. We disagree because this concept is generally not applicable when a proprietary school closes before delivering all services, since the students do not earn credits that are generally recognized by other schools.

In reviewing certification procedures, we noted that ED does not perform an extensive financial analysis or use all the information available in the Department when certifying a school. ED reviewers assessed whether a school had negative balances in its latest complete financial statements or a less than one to one current ratio, but did not perform an analysis that could be considered extensive. In most cases, reviewers did not review current year financial statements or attempt to project the government's risk of loss if the school failed or assess the school's enrollment to project guaranteed student loans and cash advances at risk. We also question the reliability of the statements submitted because many were not certified by an independent public accountant. These would be beneficial because, starting January 1989, auditors are required to more clearly disclose when conditions indicate that an entity is in danger of failing.

We recommended specific actions for program officials to take to deal with these issues. Program officials agreed with most of our recommendations.

During fiscal years 1986 and 1987, ED did not collect on six surety arrangements after the schools closed. The surety arrangements consisted of performance bonds and letters of credit worth $195,000, and corporate pledges of assets that were supposed to underwrite about $805,000 of outstanding loans. Collections were not made because the two responsible ED organizations did not coordinate their activities.

Certification Process - Administrative Capability

The final step in the process for a postsecondary institution to qualify for participation in the student aid programs is certification of administrative capability. By regulation, administrative capability has to do with having adequate records, staffing, separation of duties, standards for measuring satisfactory academic progress, and so forth. In addition, the Secretary considers it an indication of impaired administrative capability if school default rates exceed 20 percent, or withdrawal rates exceed 33 percent. While new schools entering the student aid programs may not have established default rates to present to the officials responsible for certification, withdrawal rates are available and required.

We found that the Department's administrative capability certification process does not prevent deficient schools from participating in the student aid programs. Department staff rely to a great extent on the integrity of school owners and do not perform adequate independent analysis or on-site visits to assure representations made on the certification application are factual. Institutions were routinely certified despite indications of problems which could mean the presence of impaired administrative capability.

Specifically, institutions with high withdrawal rates were certified, placing billions of dollars at risk. Prior studies by GAO and others indicate strong correlations between high default rates and high withdrawal rates. As of August 1990, ED program managers had information available indicating problems with high withdrawal rates at 345 schools; and between 1987 and 1989, these schools received over $2 billion.

One school had a withdrawal rate of over 50% for fiscal years 1985 thru 1987, while the guaranteed student loan default rates were 73.5% and 55.4% for 1986 and 1987, respectively. ED did not take action other than to continue to monitor the institution for the excessive withdrawal and default rates. During fiscal years 1987 and 1988, the institution received nearly $7.5 million in loan funds, even though ED managers should have been aware that at least one out of every two borrowers probably would withdraw and eventually default, based on this historical record. ED management advised us that they did not have the authority to take strong actions, such as termination, when schools did not sufficiently correct high withdrawal rates.

We found other instances in which schools were certified without adequate assurance that students receiving student aid funds were maintaining satisfactory academic progress. Also, even though schools were being certified for administrative capability with these potential problems, dollars at risk were not minimally protected. The Department did not assure that surety arrangements were appropriate or that they were collected.

We are recommending that ED perform on-site reviews at schools that represent the greatest vulnerability to the programs; develop a system for monitoring all institutions so that critical changes such as dramatic increases in aid or draw downs will result in new administrative certification analysis and/or an on-site visit; and deny, limit or terminate certification where there are indications of administrative deficiencies. We are also recommending that bench marks similar to those for the default initiative be established for reduction of withdrawal rate problems.

In addition to these issues, we found that institutions are not required by regulation and have not undergone a recertification review when they add branch campuses. The administrative capabilities and financial structure of institutions are affected considerably by adding branch campuses. Thus branch campuses gain access to student aid funds without review, even though ED is not aware of the effect of the expansion. Program officials informed us that they have decided to change the policy and select all institutions adding branch campuses for recertification reviews in the future. We have made an additional recommendation concerning the branch campus issue as described below.

Branch Campus Issue

In addition to other requirements for eligibility, the Congress enacted a statutory requirement that a proprietary school be in existence for two years before it may be determined to be an eligible institution. This provision was to protect the student consumer from fly-by-night institutions. We found that the protection has been eroded through a series of administrative actions - primarily the waiver of the two year rule for branch campuses or affiliated schools and the process of accepting interim accreditation.

Schools have used the branch campus route to expand rapidly beyond their administrative and financial capability to control properly the programs and fulfill responsibilities to students. Further, because of the volume of branching activities, licensing and accrediting agencies have been unable to monitor adequately the growth and ensure the quality of education being provided by those branches.

As an example, on the basis of a history of operating a small barber school with about 20 students receiving a total of about $50,000 in student aid at any given time, one school was determined to be financially and administratively capable to operate a masonry school in a major metropolitan area more than 300 miles away. Within nine months, about 700 students were enrolled and awarded nearly $3.7 million in aid funds. Subsequently, the branch campus (the masonry school) closed. Only about 20 students actually may have obtained masonry-related jobs, and an undetermined amount of tuition refunds were owed when the campus closed. While the barber college had been open for some time, the masonry school was not held to the two year rule.

Although there are five specific criteria under which ED excepts a branch campus from the two year rule, it appears that if branches are licensed and accredited, whether full accreditation or interim or provisional accreditation, they will be approved. Interim or provisional accreditation for some accrediting agencies requires only an application.

We have recommended that most of the problems with branch campuses could be eliminated by merely enforcing the two year requirement for branch campuses.

Course Length and Course Stretching

Two additional issues emphasize the difficulties involved with ED relying on accrediting agencies and/or state bodies in controlling access to student aid funds. These involve situations where, in order to qualify for participation in student aid programs, some institutions have misrepresented the length of their courses, asserting they are longer than they actually are, or situations where institutions have developed programs that are longer than needed to qualify students for gainful employment, resulting in needless time in class and debts to students.

ED's procedures for verifying reported course length data are generally limited to examining the mathematical consistency of the reported hours, a comparison to the institution's course catalog, and review of whether the represented hours meet the requirements. The procedures do not include a verification of the actual hours required to complete the courses. If the actual course length has not been verified by the accrediting agency or the state authorizing entity, or if the institution has provided false or inaccurate course length information to ED and/or to the accrediting agencies and state authorizing entities, ED may have granted eligibility to institutions whose programs are not eligible for student aid. We found and reported on three such cases.

We also believe that in other cases courses are being stretched substantially beyond what is required to obtain employment in order to qualify for student aid funds. Although there are minimum course length standards for eligibility, there is neither a standard for determining appropriate course length nor a requirement that course length be reviewed and approved by any party to the eligibility determination process. Eligible institutions have almost total discretion over the length of training programs offered. Unfortunately, that degree of latitude linked to inadequate oversight may have encouraged some institutions to develop programs longer than needed to qualify students for gainful employment.

We made recommendations that ED ensure verification of hours reported and consider studying establishment of guidelines for determining appropriate course lengths for various occupations and seek legislative authority for approving course length.

Clock to Credit Hour Conversions

Credit hours are used as course length measures at degree granting institutions where credits may be transferred, while clock hours are used by certificate granting schools. Clock and credit hour equivalencies for measuring course length are present in existing regulations, however, ED accepts conversions approved by accrediting agencies, with the understanding that the agencies are reviewing the conversions for reasonableness. We believe ED must take action to limit abuses that occur when schools assign unreasonable credit hours to clock hour training programs solely to obtain additional student aid funds.

An example of such abuse involves a school where a 13 month, 1,300 clock hour x-ray technician program was reported as converted to 78 credit hours. While an actual change in workload did not take place as required, the so-called conversion increased student aid funding qualification from $8,500 to nearly $18,000. The conversion meant students enrolled in the program were eligible for up to four Stafford loans, the same number that can be made to full-time students in traditional four-year degree granting institutions.

Clock to credit hour conversions are supported by accrediting agencies representing private vocational schools on the premise that those schools are offering theory and lecture similar to credit hour programs. Although it has not rejected conversions approved by accrediting agencies, ED has expressed concern that schools are converting to credit hours solely to make programs eligible for additional student aid funds. ED holds accrediting agencies responsible for making adequate reviews and realistic determinations about proposed conversions and has promised to reassess its position if agency decisions are found to be lacking. Nonetheless, highly questionable conversions have been approved for practically all, not just exceptional, cases.

To be considered legally authorized, a school must measure educational programs in clock hours if the state in which the school is located requires such measurement. ED officials have indicated that they hoped this would be a solution to abuses associated with clock to credit hour conversions. However, some state boards have already been persuaded to change their procedures to allow such schools to convert to credit hours. The conversion formulas adopted by the boards mirror those of the accrediting agencies. This makes it more evident that instead of relying on accrediting and/or state agencies to limit clock to credit hour abuses, ED must take more direct action.

We recommended that ED enforce the student aid equivalencies so that, regardless of the system of measurement used, students enrolled in courses of similar content and length qualify for similar amounts of aid and that ED not rely on organizations it cannot control. If accrediting agencies are to remain part of the system, ED should stipulate the standards they must meet when aid is affected and then review the agencies to ascertain whether they are in compliance.

Institutional Data System (IDS)

ED's Institutional Data System (IDS) is a single data base system capable of processing extensive information on the universe of postsecondary education institutions as well as lenders and guarantee agencies. This is the only comprehensive source of information in ED regarding an institution's eligibility for and participation in the student aid programs.

Although we did not perform a complete analysis of the IDS, we concluded that the effectiveness of using the system as a management tool for monitoring is impaired because of the extent of missing data. As of March 1989, there were 10,515 institutional main campus records in the IDS Eligibility File. We estimated about 73% of the data in the 130 fields in this file were blank. While some of these fields were not applicable to a specific institution, many of the vital fields pertaining to each institution's basic eligibility were also blank. For example, the field for state licensing body was blank for all but 113 of the 10,515 institutions. The field for accrediting body was blank for 6,924 of the institutions. The field for effective date of an institution's last eligibility notice was blank for 85% of the institutions.

The lack of this essential data significantly decreases ED's ability to rely on the IDS to help monitor institutions participating in the programs. We identified about 200 institutions that participated in the loan program during fiscal year 1987 even though there was no information in the IDS Eligibility File on the institutions, although information on these institutions did exist in the Certification File. This should not have happened because an institution should not be entered on the Certification File until it is part of the Eligibility File. Without a complete universe of eligible institutions in the Eligibility File and the effective date of an institution's last eligibility notice, ED lacks automated controls to determine when institutions are due for their four year eligibility redetermination. The missing information also prevents management officials from gathering comprehensive institutional eligibility data.

Because the Certification File did not contain complete information on the active status code for institutions participating - this field was blank for 543 institutions - the IDS is not useful for identifying the total number of active institutions participating in the student aid programs. In addition, even though institutions must have an audit performed by an independent public accountant at least every two years, for over 2,500 institutions showing as active, the IDS did not show an audit report received. Our sample of 60 audit reports listed in the IDS showed that 50 were more than two years old. Thus ED either did not receive the current reports or did not enter the information into the file. For these institutions, the IDS could not be used to identify any recent audit deficiencies affecting an institution's administration of student aid programs.

In November 1989, we recommended actions to correct these deficiencies. Program officials agreed with our recommendations and are currently working to update the information in the IDS system, starting with the most vulnerable areas concerning proprietary schools. They plan to have the system updated by the end of the year.

In addition to problems with automated records, during our work on both the eligibility and certification processes, we found ED staff could not locate the manual files. During the certification audit, they could not locate files for 31 institutions selected for review, which represents 16.9% of the sample. Of the 31, five were being monitored for administrative deficiencies. As a result ED's capability to monitor these institutions and other institutions for continued compliance with regulations for participation in student aid programs is seriously impaired.

This summarizes our work in the area of ED accreditation, eligibility, and certification. I would also like to comment on a few matters we have not yet had time to fully review concerning actions that can be taken to identify and deal with problem schools when they are program participants.

ED program managers have a system of program reviews which includes short site visits by program staff. These can result in recommendations for administrative action where appropriate. We want to review the quality and usefulness of these reviews.

In addition, student aid regulations require an audit of each institution's student financial aid activities every two years by an independent certified public accountant. These reports come to the OIG for desk review of the report and for quality control review of the workpapers on a test basis in accordance with the IG Act requirement that we assure quality of all audits done on ED funds. We have consistently found problems with the quality of these audits and are working on several fronts to improve these.

We are also concerned that there are legal obstacles to prompt administrative action by ED to cut off the flow of Federal funds in response to recommendations. For example, ED cannot fully utilize the Government-wide debarment and suspension procedures because the Higher Education Act entitles schools to a "hearing on the record" before eligibility can be terminated. These hearings can take months to complete and are costly in terms of ED resources. A school owner may be suspended or debarred based upon improper administration of Federal student aid funds or even based on an indictment or conviction for program-related fraud. Nevertheless, his school - even if he is sole proprietor - may remain in the program until such time as it receives a termination hearing on the record. We hope that

ED's emergency action regulations, which will become effective soon, may address this problem for the most egregious cases, if the regulations withstand the inevitable court challenges that have derailed them in the past.

However, we believe that it may be necessary to amend the Higher Education Act to delete the requirement for hearings on the record in order to permit more expeditious administration of the student aid programs. There is substantial due process for schools during program reviews, audits, etc. Schools could receive hearings consistent with constitutional due process which would allow all the relevant program issues to be aired without a full hearing on the record. The current requirement for a hearing on the record is all too often exploited by proprietary schools which can afford to mount costly legal challenges so long as the flow of Federal funds continues. In the interim, the public interest suffers.

Another obstacle to expeditious administrative and even judicial action against schools that abuse the programs relates to Chapter 11 bankruptcy. This can be a potent weapon for schools. By securing the protection of the court, which has an interest in seeing the school survive through reorganization, even a school that cannot make loan refund payments to former students may continue to admit new students who in turn incur student loan obligations for a school that may well close or otherwise cut back its educational program. The automatic stay provision of the Bankruptcy Code may be held to apply to an ED administrative action to terminate or otherwise limit the bankrupt school's participation in the student aid programs. In that case, a bankrupt school can retain the flow of Federal funds despite its admitted lack of financial responsibility to administer the program. We are exploring ways to deal with this issue on a case-by-case basis, but we believe that legislation making clear that administrative action by ED does not fall within the automatic stay provision is necessary to protect the public interest.

Overall, I would say that the results of our work on accreditation, eligibility, and certification show cause for considerable concern. However, I believe we have identified many of the weak points in the system and we have found program managers receptive to our concerns and recommendations. These issues will not be corrected easily and there are national policy issues involved in resolving some of them. We have been working with those in ED who are developing legislative suggestions for reauthorization of the Higher Education Act. Our focus in this effort is not so much to set policy direction, which is the responsibility of the Congress and program administrators, but to assure that whatever system is proposed and adopted has sufficient controls to assure that funds are spent efficiently and economically and with sufficient controls in place to prevent fraud and abuse. These are our statutory responsibilities.

Nevertheless, it is clear to me that the system as it exists would require tremendous resources to manage properly. ED by law cannot interfere or direct the quality of education or curriculum, yet the strong perception is that by making a school eligible for the student aid programs, the Federal government is attesting to the quality of the program. The duped student and the taxpayer are the losers.

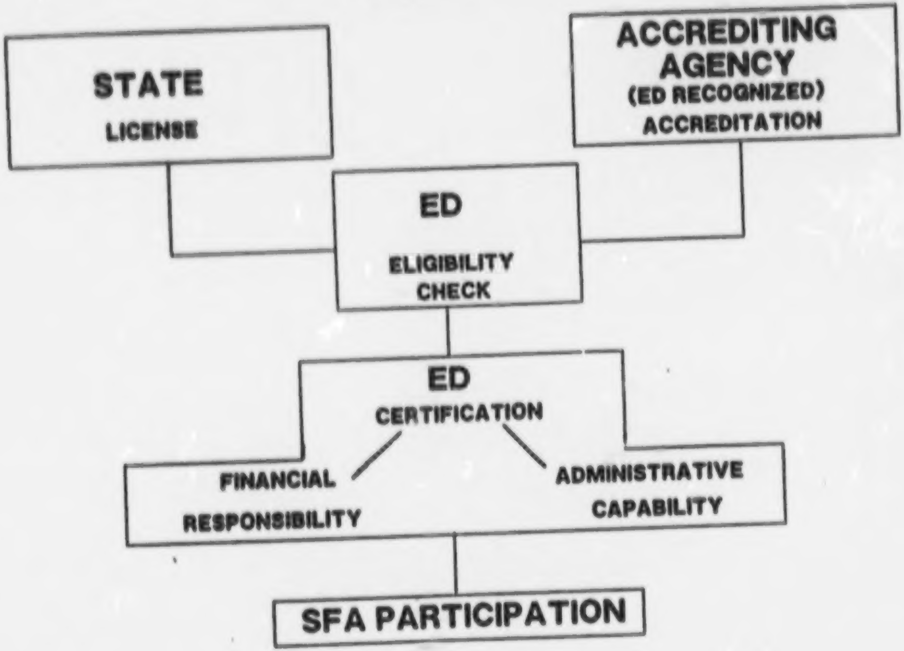
Despite the fact that the programs were created for the students' benefit, the system gives schools due process rights that have, in fact or at least in the minds of many ED program officials, hamstrung the Department from keeping out virtually any school which is accredited and licensed and from expelling schools from the programs once they are in. Where action is pursued to do so, the heavy staff resource demands of the due process procedures make action slow and difficult.

Merely keeping track of, to say nothing of monitoring, the thousands of schools, lenders, secondary markets, and servicers, and the activities of the many guarantee agencies, accrediting bodies and state licensing agencies is an overwhelming task. The programs' statutory and regulatory requirements are so complex that they are ripe with opportunities for fraud and abuse when the business economic interests of private sector participants conflict with the interests of students and taxpayers. For example, a law that regulates commissioned student recruiters only to the extent of prohibiting them from providing Federal student aid is very difficult to enforce and leaves a gaping loophole for abuse. Likewise, a law which allows non-high school graduates to participate in the programs without even passing the minimal ability-to-benefit test if remedial help is provided can easily be abused and, as a result, the student may receive all his financial aid and incur the corresponding debt - with the school making its profit - without the student having the ability to benefit from the training and without the prospect of paying back the loan.

It is not possible to create a program totally free of fraud and abuse, but I believe what we need for student aid is a program strengthened by implementation of the recommendations we have made, as well as by some of the proposals being developed for reauthorization which will result in a program simpler to manage given that we have finite resources.

Mr. Chairman, I thank you for the opportunity to report on our efforts on student aid accreditation, eligibility, and certification in ED. I would be happy to answer any questions you and other Subcommittee members may have.

TRIAD



STATE

LICENSE

ACCREDITING AGENCY

(ED RECOGNIZED)

ACCREDITATION

ED

ELIGIBILITY CHECK

ED

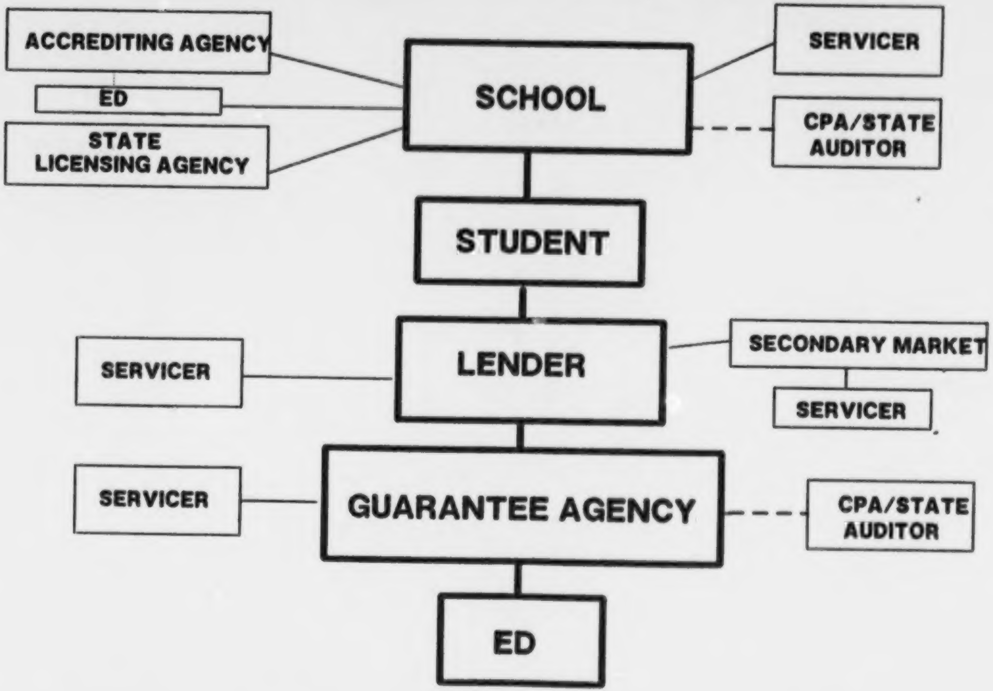
CERTIFICATION

FINANCIAL RESPONSIBILITY

ADMINISTRATIVE CAPABILITY

SFA PARTICIPATION

SFA PROGRAM PARTICIPANTS



ACCREDITING AGENCY

ED

STATE LICENSING AGENCY

SCHOOL

SERVICER

CPA/STATE AUDITOR

STUDENT

SERVICER

LENDER

SECONDARY MARKET

SERVICER

SERVICER

GUARANTEE AGENCY

CPA/STATE AUDITOR

ED

HEARING FOLLOW-UP QUESTIONS
JAMES B. THOMAS, JR.
OFFICE OF INSPECTOR GENERAL
U. S. DEPARTMENT OF EDUCATION

#1. Q. On page 22 of your statement, you explain that the Congressionally mandated requirement that a proprietary school be in existence for two years before it may be determined to be an eligible Title IV institution has been eroded by a series of administrative actions, including a waiver of the two-year rule for branch campuses or affiliated schools. Could you elaborate on this observation? Who is responsible for the administrative actions you refer to, and why were they undertaken?

A. On January 11, 1968, the Associate Commissioner of Higher Education approved the five criteria for making exceptions to the two-year existence requirement.

The five criteria by which branch campuses could be excepted from the two-year rule are:

> the parent school is well established in the state as evidenced by having been in existence for at least five years under the same ownership;
>
> the parent school is an eligible institution;
>
> the parent school owns, operates, manages or controls the branch and exercises acceptable supervision over the branch;
>
> the school requesting the waiver is accredited; and
>
> the branch meets all other requirements of the Higher Education Act, including such requirements as acceptable financial statements or refund policies.

We believe that the exceptions may have been related to the accrediting process followed back in the sixties. For example, some accrediting agencies required a parent school and branches to be in existence for two years prior to being accredited, while some required only the parent school meet the two-year requirement. It may have been a question of attempting to treat all schools equally. Additionally, back in the late sixties there were considerably fewer schools and the programs did not have the impact that they do today so the exceptions may have had very little impact.

In summary, it appears that exceptions to the two-year rule, as a practice, has been occurring for so long that they are no longer even questioned. While it may or may not have been appropriate back in the sixties, we do not believe it is warranted in the nineties, considering the problems we have encountered with defaults in the rapidly expanding proprietary sector.

I believe that there is presently a shift toward improved accountability, as evidenced by the Department's promulgation of proposed regulations that will require branch campuses to exist for two years before gaining eligibility and access to SFA funds. Also, the proposed rules will provide that a branch applying for "freestanding" status must wait two years.

#2. Q. Your Office of Audit conducted on-site audit work at the Culinary School of Washington from January 6, 1986, through July 9, 1986. In May, a draft audit report was issued, and a final report was issued in February, 1988, I understand this audit covered a period of three-and-a-half years and was quite detailed. Nevertheless, one might consider it excessive to have two years elapse between initiation of the audit and issuance of the final report. Why did it take so long? Please briefly explain the audit procedures at the Culinary School of Washington over these two years.

A. We iniiated an audit in January of 1986. On May 16, 1986, we transmitted a memorandum alerting the Assistant Secretary for Postsecondary Education to the deficiencies our audit work had disclosed up to that time. We requested the Department to inform us of any planned action within thirty days. On July 1, 1986, the Department notified us that they did not believe it was appropriate to take administrative action because our findings were preliminary. However, they stated that upon issuance of the draft report they would take action needed to protect the interest of the Federal government.

The OIG conducts both audit and investigation activities, sometimes simultaneously, with respect to a particular entity. At the time the Culinary audit was initiated, our office had an internal policy in effect restricting issuance of audit reports concerning entities on which we had investigative work in process; this was to prevent publication of information that could potentially prejudice judicial action. By the end of April 1987, we were able to determine that release of our draft report, which would deal primarily with issues related to refunds, would not impair our investigation activities. Thus, our draft report was issued shortly thereafter, in May 1987.

Once the draft report was issued, as with every draft report, we allowed the auditee 30 days to respond to the draft report in writing. In the case of Culinary, a request for an extension was granted, and auditee comments were received at the end of July, 1987. Subsequently, we reviewed the auditee's comments and incorporated them into our final report. Normally, this process should only take about 30 days, but due to the length of this report and the presence of competing workload priorities at the time, some further delays took place, and the report was not issued until February 1988.

#3. Q. Your February, 1988, audit states,

> Based on the results of our review, we concluded that Culinary School of Washington's management was fully aware of this non-compliance with student financial aid regulations but failed to implement corrective actions. In our opinion, Culinary School of Washington has caused undue hardship for the student borrowers, lending institutions, HEAF, and ED, and has caused the Federal Government thousands of dollars in unnecessary interests and special allowance costs.

What did your Office do about these finding? What action, if any, did the Department of Education take in response to these findings?

A. As indicated, we notified the Department even prior to issuance of our draft report of the problems present at Culinary. Secondly, in the transmittal of our draft report we added language to emphasize the serious nature of the violations disclosed. Our final report recommended that the school repay GSL refunds and take other corrective actions to prevent future occurrences of the nature disclosed during the audit. Our final report also cited the results of two independent public accountant (IPA) SFA audits covering similar periods of time.

The SFA audits of Culinary for the two years ended June 30, 1984 (dated September 23, 1986) and the two years ended June 30, 1986 (dated April 7, 1987) were received by Department officials on October 3, 1986 and September 3, 1987, respectively. Both of these reports indicated continuing, significant problems at Culinary. Our final report referred to the IPA work, as well as our own independent testing of GSL transactions, and concluded that in addition to the work we performed, "there is no assurance that items not examined were in compliance with applicable laws and regulations."

Further, subsequent to the issuance of our final audit report, the Higher Education Assistance Foundation (HEAF) issued a report of their on-site review conducted on June 6 and 7, 1988. The transmittal of this report also emphasized the seriousness of the violations that surfaced.

Then, in July 1988, through the audit resolution system, the Department notified Culinary of actions the school must take and information it needed to submit before the Department would take further action. Information was subsequently exchanged during an August 4 meeting. On September 14, 1988, the Department issued a letter of final determination to the school calling for tuition refunds to be made and other corrective actions.

Finally, during 1989, the frequency of complaints against Culinary increased, prompting the Office of Postsecondary Education to perform a program review in July 1989. Because the school continued to be a subject of controversy even after the program review, my office initiated an inspection in January 1990, about the same time the school filed for Chapter 11 bankruptcy to enable it to reorganize and continue operating. At the conclusion of the inspection and subsequent to our verbal discussion with school officials covering our findings, the school voluntarily agreed with the school's licensing agency to cease operations -- as of June 30, 1990.

#4. Q. In April, 1985, your office based its criminal investigation on information that a material percentage of students either never attended the Culinary School of Washington or dropped out prior to graduation. What were the results of that investigation?

A. The OIG opened an investigation on the Culinary School of Washington (school) in January 1986. The investigation was predicated upon information provided by the Federal Bureau of Investigation that alleged: the school was recruiting low income students who qualify for government student loans and Pell Grants; the school received these funds prior to the students enrollment; a substantial percentage of the schools students never attended the school or drop out prior to graduation; and the school intentionally failed to refund the unused portion of the tuition, thereby resulting in a loss to the government.

Interviews of former school employees and students indicated that the administration of the school was poor; that the school recruited many students unsuited for or unable to benefit from the programs offered; that many students stopped attending classes shortly after they began; and that the school failed to make appropriate tuition refunds on behalf of the student borrowers to GSL lenders. In addition an analysis of over 11,000 bank checks drawn on six accounts revealed that the school owner, the owner's spouse and other members of the owner's family received a significant amount of the school's gross receipts between 1982 and 1986.

A report of investigation containing the foregoing findings was provided to the United States Attorneys Office, Washington, D. C. in late January 1988. During a meeting with the assigned Assistant U. S. Attorney (prosecutor) to discuss the findings contained in the OIG report, the prosecutor was also advised that as of late January 1988 the school had made about $210,000 in refunds to the Higher Education Assistances Foundation (HEAF), a non-profit guarantee agency. These refunds were made in accordance with an October 1986 agreement between the school and HEAF wherein the school agreed to pay tuition refunds to former students totaling about $375,000 plus accrued interest.

Upon learning of the school's repayment of tuition refunds, the prosecutor advised that criminal intent would be very difficult to establish in this case. At the conclusion of a January 1988 meeting, the prosecutor requested no further investigation and advised he would issue a prosecutive opinion after a detailed review of the OIG report of investigation, which was provided at the meeting.

In August 1988, follow-up contact with HEAF determined that as of August 1988 the school had paid HEAF a total of $329,000 in tuition refunds.

In lieu of a formal declination of prosecution, the OIG advised the prosecutor, in a September 16, 1988 letter, that the OIG was closing its investigation of the school. Further, the prosecutor was given the updated tuition repayment figure. In addition, the prosecutor was informed that unless he objected, we intended to share our investigative and audit findings with another federal agency.

Since no further communication was received from the prosecutor, the OIG investigation was closed in October 1988.

#5. Q. Has the Department of Education taken any action to debar or prohibit any school owned by Barkev or Mary Ann Kibarian from participating in Title IV funding?

A. We were advised by the Office of the General Counsel that no school owned by Barkev or Mary Ann Kibarian is currently participating in any Title IV programs. On June 26, 1990, the OIG recommended to the Deputy Assistant Secretary for Student Financial Assistance that the Kibarians be issued a notice of government-wide suspension and a proposed government-wide debarment from Federal nonprocurement transactions. It had been in the Office of the General Counsel for legal sufficiency review. The notice is now being prepared by the Office of Postsecondary Education.

#6. Q. Does the Department of Education monitor the results of State court litigation involving accrediting agencies that are compelled by the state courts to accredit schools the agencies find are unworthy? Specifically, does the Department of Education have the authority to become involved in the appeal process for these schools who are or will eventually be participating in the Title IV program? If the Department does have the authority, have any appeals been filed?

A. Our office did not review State court cases as part of our audit effort and therefore we do not have first hand knowledge of the extent to which the Department was aware of them. We were advised by both the program personnel and a staff attorney from the Office of General Counsel that the Department does not track this information.

#7. Q. During the ten years you have been the Department of Education's Inspector General, what recommendations have you made as to improvement of the student financial aid program? How many of those recommendation have actually been implemented, and what has been the beneficial effect of those changes?

A. Since 1982, the Office of Inspector General has issued forty nationwide and internal audit reports or management improvement reports on the SFA programs. (Reports issued prior to 1982 have been archived and were not readily available for analysis. There were no nationwide or headquarters internal audits issued on SFA programs during that time period). Also, we have recently issued three draft internal audit reports as discussed at the hearings. It is important to note that the 40 reports do not include audits of individual entities.

With regard to the 40 reports, the Department's audit tracking system shows that 10 audit reports have been closed. Records on the remaining 30 reports show that we made 128 recommendations; 26 of which are closed and 102 are open.

Of the 10 reports that have been closed, we believe that appropriate action has been taken on nine. The remaining report addressed the potential for Guarantee Agency conflict of interest in the GSL program and questions regarding the financial stability of some of the Guarantee Agencies. I intend to ask the Department to reconsider some of our recommendations in this area.

Our recommendations addressed various steps that the Department's program managers could take to improve their administration of the Title IV program. Generally, our recommendation focused on assuring that Department manager had adequate controls over the information they received and the manner in which they processed it. Collectively, we believe our recommendations helped to improve the programs' economy and efficiency.

Enclosed as Attachment 1 is a summary of the status of management actions on the recommendations contained in the 40 reports. Enclosed as Attachment 2 is a synopsis of the reports' findings and recommendations, and the individual recommendations.

UNITED STATES SENATE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS

TESTIMONY OF ELIZABETH IMHOLZ, ESQ.
SOUTH BROOKLYN LEGAL SERVICES
105 COURT STREET
BROOKLYN, NEW YORK 11201
12 SEPTEMBER 1990

I am the Consumer Law Specialist for Legal Services of New York City whose neighborhood offices provide free legal representation to low-income persons. Over the past four years, our offices have been deluged with complaints about proprietary trade schools: students defrauded by promises of free training and high paying jobs, tricked into signing for loans they did not necessarily need or want, disgusted by broken equipment and teachers who do not teach or even show up for class, and, ultimately, sued or harassed because of defaulted loans.

Each day I receive several telephone calls from students, counselors, lawyers and other advocates about problems concerning for-profit vocational schools and related financial aid matters. It is no exaggeration to say that nearly every client who walks through our doors has either had a proprietary trade school problem herself or has a friend or relative who is aggrieved. As a result, we have made proprietary trade school problems our highest priority consumer cases.

We have brought class action suits against several New York City trade schools, only to have the schools enter bankruptcy. So far, the frustrating results of our efforts are prolonged litigation against corporate shells with little or no assets; students who have received no training or jobs, are saddled with defaulted loans and barred from further educational opportunities; and taxpayers who must pick up the tab on not only the defaulted loans but on the interest and other loan subsidies that sustained these fraudulent operations.

Because it has been impossible, after the fact, to rectify the damage perpetrated by trade school misconduct, we believe that legislative and regulatory change is needed at the front end. Tight control over proprietary trade schools' access to federal student aid could prevent these frauds from happening. Optimally, proprietary trade schools should be regulated separately from traditional institutions of higher education because the two are qualitatively different--both in their motivation and their purported missions. At minimum, Congress needs to enact exacting standards for recognizing accrediting bodies and for holding them accountable, as well as high performance standards for proprietary trade schools to meet before they can receive federal funding.

I. SOUTH BROOKLYN LEGAL SERVICES' EXPERIENCE WITH PROPRIETARY TRADE SCHOOL ISSUES

In the past three years, our office has represented hundreds of trade school students. We have filed three class action lawsuits on behalf of such students against their former schools. In May, 1987, in conjunction with the law firm of Willkie Farr and Gallagher (serving as pro bono co-counsel), we filed a lawsuit in federal district court for the Eastern District of New York against Adelphi Institute, Inc. ("Adelphi," no relation to Adelphi University) and its owners and officers raising claims under the federal Racketeer Influenced Corrupt Organizations ("R.I.C.O.") and Higher Education Acts as well as fraud, misrepresentation, breach of contract, breach of fiduciary duty, and Deceptive Practices Act violations. (Awilda Moy, et al. v. Adelphi Institute, Inc., Civil Docket No. 87-1578.) The suit alleges, among other things, that Adelphi was run not to provide education or training, but as a fraudulent scheme to obtain government revenues in the form of grants and loans.

Just months prior to Adelphi becoming licensed by New York State and accredited by A.I.C.S., its principal owner had been convicted of defrauding the federal government of Manpower Training funds. At its peak, Adelphi, a nationwide chain, had six New York locations, enrolled several thousand students, and received $80-120 million in state and federal grants and loans. In 1989, the principal owner was indicted in New York State court in Manhattan for unlawfully withholding student loan refunds. We believe that, nationwide, Adelphi did not refund approximately $10-12 million in student loans, the bulk of which are probably now defaulted. Two months after we filed the lawsuit, Adelphi filed a Chapter 11 bankruptcy reorganization petition; two months after that, Adelphi closed its doors nationwide and converted its bankruptcy into a Chapter 7 liquidation.

In February, 1988, our office filed (subsequently the law firm of Davis Polk and Wardwell joined as pro bono co-counsel) a class-action lawsuit in New York State Supreme Court, Kings County against Market Training Institute, Inc. ("MTI") and its owners alleging fraudulent inducement, misrepresentation, breach of contract, breach of fiduciary duty, and Deceptive Practices

Act violations. (Joseph Figueroa, et al. v. Market Training Institute, Inc., et al., Index No. 4539/88.) In 1989, New York State's loan guarantee agency terminated MTI's participation in its program because of MTI's wrongdoing in handling student loans. In August, 1989, in the midst of litigation, MTI filed a Chapter 11 bankruptcy petition which has since been converted to a Chapter 7 liquidation. MTI was accredited by A.I.C.S.

Our third class action suit was commenced in November, 1988 in New York State Supreme Court, New York County, against Crown Business Institute in Manhattan and its owners, as well as Florida Federal Savings, Norwest Bank, and other holders of the plaintiffs' student loans and H.E.A.F., the loan guarantee agency. Private co-counsel on the Crown case is Jane Barrett, Esq. of Manhattan. (Luz Molina, et al. v. Crown Business Institute N.Y.C. Inc., Index No. 24332/88.) Crown closed its Manhattan School in 1988. While the school is not in bankruptcy, we believe it has few assets against which to recover. Defendants motions to dismiss are currently under submission before the court.

We have to come to recognize the limited benefits of litigating within a fundamentally flawed system where the accrediting bodies and the U.S. Education Department sometimes seem aligned with the schools against the student-consumers' interests. Daily, we hear from our clients the far-reaching consequences they suffer by being victimized by proprietary trade schools: as much as $6,625 in defaulted loans, threats of lawsuits, ineligibility for any future student financial aid including grants, negative credit ratings, loss of confidence in themselves, and loss of faith in the governmental system that allows funds to flow to fraudulent operations. Because proprietary trade schools can fold up their tents overnight--their only real asset being the ability to tap into the flow of federal student aid--our experience shows that chances for recovering damages through litigation are slim.

II. RECOMMENDATIONS

A. Elimination of Proprietary Trade School Eligibility For H.E.A. Funds; Any Separate Federal Funding Based On Performance Standards.

Our clients present a strong need and desire for high quality basic literacy and English-as-a-second-language programs, and for job training. Based on our clients' experiences, proprietary trade schools do not fill that need because they are profit-, rather than product-driven. The present regulatory scheme has developed standards and controls oriented towards regulating traditional, non-profit institutions of higher education. This system has failed to maintain minimal levels of quality in proprietary trade schools, and in fact may have fostered widespread fraudulent practices.

One solution is to acknowledge the differences between proprietary trade schools and other institutions of higher education and to separate their funding and regulation. Job training and placement, the stated goals of proprietary trade schools, naturally lend themselves to objective standards and measures.

Proprietary trade schools could thus be removed from the Title IV programs and the jurisdiction of the U.S. Department of Education and separately funded, contingent on meeting performance standards designed specifically for trade schools. The U.S. Department of Labor already oversees such a model under the J.T.P.A. program. Conditioning eligibility for federal aid on performance standards, such as, job placement rates within the field of training, student withdrawal rates, and loan default rates would provide meaningful incentives to proprietary trade schools.

B. Making The Accreditation Process Meaningful

The Department of Education relies almost exclusively on private accrediting agencies to evaluate and vouch for the quality of educational institutions before they can participate in federal student aid programs. While this system with its self-evaluation and "peer review" may be adequate for non-profit colleges, it clearly is not working to the benefit of students or taxpayers with respect to proprietary trade schools. In our view, there are two basic flaws in the process. First, the federal statutes lack clear direction as to the standards that the Secretary of Education should use to grant "recognition" to accrediting bodies. Thus, inappropriate agencies have been given the powerful role of assessing the quality of trade schools and opening the floodgates of federal student aid to them.

As one State agency report has noted, "Accreditation is a peer-review process--vocational school operators evaluating each other.... Because they are composed of school operators, they come closer to being trade associations than objective evaluating bodies.... [T]hese accrediting agencies work against the public interest by creating the impression in the public mind that the schools have been endorsed by truly objective evaluating bodies." New York State Consumer Protection Board Report, July 20, 1978, "The Profits of Failure", pp. 72-3.

Secondly, inadequate statutory and regulatory requirements for accreditors have allowed them to evade responsible decision-making about which trade schools to accredit, continue or terminate. Accreditation is routinely granted, for example, without the accreditors giving weight to records of complaints about or findings against proprietary schools by state regulators, without regard to the owners' prior convictions, and sometimes without site visits. In many instances, accreditors grant approval or fail to impose sanctions against proprietary schools even though they are subject to state regulatory fines, disallowances, and disciplinary actions.

In fact, the Federal Trade Commission has found that accreditation has no perceptible effect on the operation of proprietary schools:

> "The types of complaints registered against accredited schools are the same as those filed against unaccredited schools and we have no evidence to indicate that accreditation has served to reduce the form, scope, or content of such complaints.

F.T.C. Report, "Proprietary Vocational and Home Study Schools", Dec. 10, 1976, p. 323.

A telling example of the intractable conflict of interest faced by proprietary school accreditors is demonstrated by the testimony of Stephen J. Blair, President of the National Association of Trade and Technical Schools ("NATTS"), presented to this subcommittee on February 20, 1990. Mr. Blair emphasized NATTS' "interest in closing down bad schools and eliminating abuses" and held forth as his main example a "consumer booklet" recently published by NATTS on choosing a proprietary trade school entitled "Getting Skilled, Getting Ahead". "Getting Skilled, Getting Ahead" does not contain one word of warning that unscrupulous "bad schools" exist, much less advice on how to spot and avoid getting entrapped by fraudulent practices.[1]

Proprietary trade schools need to be made directly accountable to the federal government. Delegation of the power to determine eligibility for massive amounts of federal dollars without enumeration of specific statutory responsibilities has severely weakened that accountability. The federal government must either change its hands-off attitude and judge the quality of proprietary trade schools itself or, at the very least, enact measurable eligibility standards to ensure that both proprietary trade schools and the accrediting agencies are doing their jobs.

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[1] In 1988, the Department of Education issued its commissioned report (prepared by Pelavin Associates) which catalogued the widespread problems of consumer fraud in the proprietary trade school industry. It is a sad commentary that a year later the Department apparently co-sponsored "Getting Skilled, Getting Ahead" which promotes proprietary trade schools over other vocational programs without any mention of the problems of consumer fraud, and without any admonitions about inappropriate admissions, excessive financial aid obligations, etc. A copy of a consumer protection comic book developed by a consortium of student advocates in New York entitled "The Career School Con Game" is annexed for your information. If the federal Consumer Information Center continues to distribute "Getting Skilled, Getting Ahead", we request that the Center also enclose and distribute copies of "The Career School Con Game" in order to present a balanced view.

Thank you for this opportunity to present our clients' experiences. If you have further questions, I would be happy to respond.

Hearing Follow-up Questions

Elizabeth Imholz, Esq.
Director, Consumer Unit
South Brooklyn Legal Services
Brooklyn, New York

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1. Q. Practices, characteristics, and ownership of proprietary schools seem to change rapidly. Do you think that accrediting agencies should review their proprietary schools on an annual basis in an attempt to monitor the changes?

A. Yes, more frequent visits might be helpful, but only if they are unannounced. In the course of litigation, we have learned from school employees that owners conduct "cleanup missions" when they learn that the accrediting team is about to descend. One employee described to us how, in preparation for accrediting team visits, the owner organised what he called "SWAT teams" to destroy, hide, and alter certain student files to conceal that the school continued to collect student financial aid for students no longer is attendance; to create academic records showing "satisfactory performance" to meet federal financial aid standards where the student was not passing; and to move computers from location to location solely for the accreditor's visit to create the false impression that the school site was properly equipped. He has sworn to us that "financial aid, academic, and placement records were routinely altered." Of course, requiring unannounced visits alone will not make any difference if accreditors continue to be predisposed to accepting proprietary schools' explanations, to accept without verification data provided by schools, and to fail to act on deficiencies (see answers #5 & 7 infra).

2. Q. As the system is now, do you think there is sufficient control over the proprietary institution?

A. No, control over proprietary institutions is fragmented among a crazy quilt of federal and state agencies, lenders, public and private loan guarantors, and accreditors. Information is seldom shared among the "regulators" and enforcement seldom, if ever, coordinated. U.S. Department of Education ("Department") employees have told me that when they tried to get school information from certain accrediting agencies they were told that the Department was not entitled to it. On the one hand, the Department has delegated broad responsibility to accreditors without setting forth clear lines of accountability. On the other hand, the Department's regulations appear to retain a great deal of authority which the Department never exercises. For example, the Department's regulations prohibit proprietary schools from making misrepresentations. 34 C.F.R. §§668.71-75. Yet, when I asked why the Department failed to investigate my clients' com-

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plaints of misrepresentation, Department employees repeatedly have told me that they handle only financial aid issues provable by documentary evidence. Control over proprietary institutions is clearly lacking.

3. Q. Branching has been cited as an area that presents difficulty to accrediting agencies. Do you think we should limit branch campuses to a specific distance from the main school and/or require the branches to teach the same type programs as the main campus?

A. Branching creates difficulties for accreditors by allowing rapid institutional expansion with limited monitoring ability, but it also creates a high potential for fraudulent receipt of federal funds. Limiting branches to a specific geographic area or to certain programs, as the question suggests, would not assure the proper receipt of Title IV funds and therefore would not adequately address the widespread problems caused by branching. For example, in or about 1987 Adelphi Institute, under Order to Show Cause from A.I.C.S., opened another location in Jamaica, Queens, New York. Adelphi already had four other New York City locations teaching essentially the same programs. State investigators found that the Jamaica branch started enrolling students before receiving accreditation by processing the Jamaica students' federal financial aid applications through one of Adelphi's midwest locations accredited by N.A.T.T.S., representing that the Jamaica students were attending the midwest Adelphi.

4. Q. Is is your impression that more proprietary schools turn bad after they are accredited, rather than that bad schools make it through the review process undetected?

A. Not necessarily. It seems relatively easy to make it through the initial accreditation process which consists of a self-serving self-evaluation, followed by an announced visit and payment of fees. We started receiving a great number of valid complaints about one school, for example, from the month it was accredited by A.C.C.E.T.

5. Q. Do you find that most review teams are predisposed to accredit schools, even when problems are found, because they assume the school will improve with time?

A. Yes. Accrediting reports we have uncovered in the course of litigation make clear that accreditors overlook violations of accrediting standards based on the rationale that the school should be given a chance to improve. For example, A.I.C.S. concluded a "Branch Campus Evaluation Report" of Adelphi Institute's Van Nuys, California location in May, 1985. Among other things, the report found the educational facilities dirty, depressing, and unsafe - "certainly not the kind of environment/atmosphere that would be conducive to studying, teaching, and learning." While this and numerous other violations were found, A.I.C.S. continued the Van Nuys branch's accreditation in part based on the fact that a new director had just been hired.

6. Q. Do you think that the Department of Education places more reliance on accrediting agencies than these agencies can effectively discharge with periodic visits?

A. Yes. The broad reliance conferred on accreditors by the Department is ill-defined and without clear standards for accountability. The result is that neither accreditors nor the Department can easily be held responsible. Infrequency of accreditor visits is only part of the problem; the fact that visits are pre-announced; the lack of communication between accreditors and the other regulatory players; and the fact that accreditors are often not predisposed to act even when they find school violations are some of the other reasons why the Department's reliance on accreditors is inappropriate.

7. Q. As far as you know, do accrediting agencies verify data that schools provide, or are these data automatically accepted as reliable?

A. Apparently, accreditors accept data provided by schools without independent verification. In the course of litigation we have learned, for example, that Market Training Institute ("MTI") stated in or about July 1988 in its 1988 Institutional Report to A.I.C.S. that there were no suits or legal actions against it when, in fact, we had commenced a class action lawsuit against MTI based on fraud and misrepresentation, among other claims, in February, 1988. Also, as described in answer to question #1 above, a proprietary school employee has sworn to us that placement, academic, and financial aid records were routinely falsified by the school at which he worked; apparently, the owner had no fear that the accreditor would independently verify the data.

8. Q. In your experience, how would you rate the performance of the Department of Education regarding administration of the Title IV program, or the responsiveness of the National Advisory Committee to your complaints?

A. I would rate the Department's performance as extremely poor in protecting proprietary schools students' and taxpayers' interests, and extremely good in protecting and nourishing proprietary schools' and accreditors' interests. For example, in the Spring of 1986, our office began filing complaints with the Department (Region II) against Adelphi Institute. Beyond their significance to the individual students involved, these complaints should have brought to the Department's attention more widespread problems with Adelphi. I understand that independently in the Summer of 1986, the Department's Office of Student Financial Assistance and the Department's I.G.'s Office (Region IX) found widespread chaos in the financial aid records at Adelphi Institute's corporate headquarters in Phoenix and received substantial resistance from Adelphi's management in providing explanations about missing or inconsistent data. Rather

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than take any action to limit, suspend or terminate Adelphi's Title IV participation, the Department allowed Adelphi nationwide to continue receiving full federal funding thereby allowing Adelphi, approximately 95% of whose revenues were derived from government funds, to continue enrolling and defrauding students until its closing in September, 1987. In addition to the uncollected fraud damages sustained by Adelphi students, at its closing Adelphi left unpaid $10-12 million in student loan refunds.

A further example of the Department's failure to make protecting students a priority is its co-sponsorship with N.A.T.T.S. of the booklet "Getting Skilled, Getting Ahead." Purporting to be a consumer information booklet, "Getting Skilled ..." is in reality a promotional booklet for proprietary schools which does not contain a single warning about the abuses in the proprietary sector, or about public and non-profit alternative providers.' Chapter 4 "Deciding Factors" implies that proprietary schools are preferable to colleges because:

> Carpeting, a receptionist, and a pleasant waiting area combine to make these schools look more like business than university and college campuses. These schools are student oriented ... [Private] Schools continue to succeed because people like you leave as satisfied customers," etc., etc., etc.

The booklet also assures the reader that accreditation guarantees that the school, among other things:

- truthfully advertises its services;
- clearly sets forth the terms for enrollment;
- admits only qualified students; and
- charges reasonable tuition fees.

The Department knows such claims to be false since accredited for-profit schools are regularly found to use deceptive advertising, to admit unqualified students and to charge enormous fees based on the maximum federal aid available. This booklet, particularly because it lacks any consumer warnings about the potential pitfalls of proprietary schools, is a gross disservice to prospective students.

The National Advisory Committee has never responded to my complaints perhaps because, as I understand it, the Department never forwarded my complaints to the Committee. In March 1989, for example, I wrote a letter of complaint to the Department's Accrediting Agency Evaluation branch concerning an accreditor, A.C.C.E.T. (copy enclosed). The letter recounted my difficulty over a period of some three years in getting from A.C.C.E.T. information which under federal regulations should have been publicly available concerning whether A.C.C.E.T. accredited a particular school and what A.C.C.E.T.'s standards and procedures for accreditation are. I also requested that my experience with A.C.C.E.T. be taken into consideration when A.C.C.E.T. came up for renewal of recognition. Although the Department assured me that my letter would be taken into account in its review of A.C.C.E.T. and would also be brought to the attention of the Advisory Committee (copy of May 17, 1989 letter from Branch Chief attached), I later learned that it had never been referred to the Advisory Committee. In June, 1989, the committee re-recognized A.C.C.E.T. for a period of 5 years, subject to reconsideration in the Fall of 1990.

9. Q. Subcommittee staff has been told that dual accreditation is one way that schools protect themselves against having the Title IV money tap turned off. Why would a school seek institutional accreditation by two national agencies?

A. Proprietary schools seek dual accreditation so that if one accreditor drops their accreditation, the institution still has accreditation from the other sufficient to maintain Title IV eligibility. One solution to this potential loophole would be to bar dual accreditation or to require "reciprocity" among accreditors so that if one accreditor terminated an institution the other would be required to do the same. Amendments to the HEA passed in 1989 (P.L. 101-239) touch on this issue by stating that an institution may not be certified or recertified by the Department as eligible for Title IV funds if the institution has had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause within the preceding 24 months or if the institution withdrew voluntarily from its institutional accreditation under order to show cause or suspension order within the prior 24 months.

Two statutory exceptions and several exceptions created by the Secretary may, however, swallow up the rule. The statutory exceptions provide that Title IV eligibility may be granted or restored if (a) accreditation is restored by the same accreditor that withdrew, revoked or otherwise terminated accreditation, or (b) "the institution has demonstrated its academic integrity to the satisfaction of the Secretary ..." Amendments to §435 of the HEA. In addition, the Secretary has interpreted this provision as allowing continued eligibility if the institution has obtained pre-accreditation status (from another accreditor); has met the transfer-of-credit alternative to accreditation; or has merely had accreditation for a particular program rather than for the entire institution revoked. Department Administrative "Dear Colleague" Letter GEN89-58, 89-G-174, 89-L-134 (Dec. 1989) pp. 3-4. The Secretary's implementation of the statutory amendments should be carefully monitored to determine whether the amendments substantially improve the dual accreditation problem.

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10. Q. Based on your experience, how many "bad" accredited schools are there? Are there simply the proverbial few bad apples that proprietary school industry interests assert, or are there more?

A. Based on my experiences and those of my colleagues around New York City and across the country, there are more than a "few bad apples"; the system itself is so fundamentally rotten that it simply does not - and perhaps cannot - keep up with uncovering all the bad actors. In fact, the current regulatory scheme, rather than providing incentives for proprietary schools to provide quality training, instead fosters poor training and fraudulent practices. Since neither accreditation nor federal funding is contingent on performance and since massive profits are attainable with virtually no monitoring, school owners have every incentive to enroll as many student as possible by making promises they cannot keep; to cut corners on equipment, teachers and educational expenses; and to make their main goal maximizing profits rather than graduating skilled workers and placing them in meaningful jobs. In our pending case against Market Training Institute ("MTI"), for example, we have learned that in the process of increasing net tuition income - primarily from Title IV funds - to $9.1 in 1988, MTI's owner acquired a network of affiliated schools, employment/"career guidance" agencies, and real estate partnerships. Approximately 80-90% of the school's enrollees for 1987 were "ability to benefit" students"; more than 50% of all enrollees at MTI withdrew from their programs. During that period, MTI spent more than $1 million on student recruitment - several hundred thousand dollars more than it spent on teacher salaries and other instructional costs combined.

All the 20 proprietary schools against which our office is handling complaints, including litigation, are accredited. In our experience, therefore, accreditation is no indication of quality. In fact, ironically, the converse may be true: because accreditation opens the flow of virtually unmonitored federal Title IV funds, accredited proprietary institutions may be far less scrupulous than unaccredited ones which rely solely on students who can afford to pay tuition without government financial aid, who may be more sophisticated consumers, and who are thus less likely to be taken in by a sales scam.

11. Q. We've heard that site examinations by accrediting agencies are often ineffective in catching bad schools. Do you agree? If so, why?

A. Yes, pre-announced visits are ineffective for the reasons described in answer to questions 1 and 5.

12. Q. In your experience, how do accrediting agencies view their function? Do they consider themselves responsible for safeguarding against fraud or abuse in student loan programs? Or do they view themselves more as an advocate for their member schools?

A. In my experience, accreditors clearly view themselves as the schools' advocates and not as protectors of students' or the federal government's interests. For example, in response to one of my client's detailed complaints, A.B.H.E.S. simply provided a copy of the school's response within which the school acknowledged having violated the state-mandated admissions requirement of a high school diploma. Yet, the accreditor took no action - and no position - as to whether the student was wrongfully admitted and, therefore, entitled to a tuition refund. Independently, the State ordered restitution by the school. Similarly, when I presented A.C.C.E.T. with a client's unmade student loan refund issue I was informed that A.C.C.E.T. does not view its role as getting involved in the day-to-day operations of member schools nor in dealing with student loan issues. After several telephone conversations and correspondence with A.C.C.E.T. officials, A.C.C.E.T. merely sent me copies of the school's explanation of its refund calculation. Finally, in 1990 the Department confirmed that the calculation was inadequate by $435 and ordered the school to pay the refund plus the more than 4 years interest attributable to the school's delay.

That accreditors do not view protection of students' interests as their concern is also evidenced by the remedies set forth in A.I.C.S.' bulletin entitled "Procedures for Resolving Complaints". The only potential actions mentioned in "resolving" complaints are: (1) dismissing the complaint, (2) postponing final action on the complaint if there is sufficient evidence that the institution is making progress to rectify the situation, or (3) notifying the institution that the evidence indicates a failure to meet Accreditation standards and that the institution may be either (a) directed to submit a report detailing a plan for rectifying its non-compliance or (b) directed to show cause why its accreditation should not be suspended, revoked, or otherwise conditioned. A.I.C.S. makes no mention of ordering the institution to make restitution or to take any other action to directly rectify the student's complaint.

13. Q. In your experience, is it common for accrediting agency directors or board members also to be proprietary school owners? Does that create a potential conflict of interest? Do you know if accrediting agencies have adopted any ethical standards to prevent potential conflicts in those situations?

A. This question is not within my field of experience.

14. Q. From your unique perspective as a lawyer representing student victims of the current system, could you provide us with additional details regarding your dealings with accrediting agencies? Do you have any opinion as to which are good ones and which are not?

A. One could infer from the foregoing questions that tinkering with aspects of the accreditation scheme - branching, dual accreditation, frequency of site visits, etc. - would remedy the widespread abuses of students and of Title IV programs by proprietary schools. After careful study and several years of experience representing students, I no longer believe such revisions will make a substantial difference.

Accreditation and the flow of massive federal dollars to for-profit schools leaves my clients with the impression that some government body has verified the quality of the facilities and training these schools purport to provide - otherwise, student after student asks, why would the federal government allow such huge amounts of government money to flow to them? Proprietary school students, however, seldom understand who the accreditors are or how to complain to them. Because of the accreditors' tendency to see themselves as the schools' advocate rather than as the handler of student grievances (see answer #5, 7 and 12), our office does not routinely forward to them complaints filed with the State agencies and the Department.

Nevertheless, the Department's Region II office often forwards our complaints to the appropriate accreditor. In several instances, I learned that the accreditor had been sent a copy of the complaint when my client came in with a letter of acknowledgment from an accreditor stating that the matter was being looked into. For example, in later 1986, I filed complaints with the Department against NTI Business School. A month later A.I.C.S. sent acknowledgements directly to my clients stating that A.I.C.S. had "asked for a detailed response to [the] allegations [and] ... will advise you of our findings as soon as possible." NTI closed in 1989. No response from A.I.C.S. has been received to date. In fact, the two responses I have had from accreditors (see description of facts involving A.C.C.E.T. and ABHES above, answer #12) simply regurgitated the schools' explanations and did not resolve the students' complaints, both of which proved to be valid.

Since the schools my clients have had problems with have been accredited by such a range of accreditors - A.C.C.E.T., A.I.C.S., N.A.T.T.S. and A.B.H.E.S. - and since none of the accreditors has ever resolved by clients' valid complaints, I am hard-pressed to name any "good" proprietary school accreditors. In short, in my experience the accreditation system simply is not working to ensure quality in the proprietary sector and should not be relied upon to do so in the future. One solution (raised in my oral testimony before the Subcommittee) is to make federal funding of proprietary schools contigent on meeting performance standards specifically designed for trade schools. In doing so, heavy reliance on accreditors would be eliminated and incentives for quality training and job placement created.

Brooklyn Legal Services Corp. B

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John C. Gray, Jr.
Project Director

Towards justice and dignity for all

Por justicia y dignidad para todos

March 7, 1989

Steve Pappas, Chief
Accrediting Agency Evaluation Division
United States Department of Education
400 Maryland Avenue
ROB Building No. 3 (Room 3036)
Washington, D.C. 20202-5171

CERTIFIED MAIL

Dear Mr. Pappas:

I write concerning the Accrediting Council for Continuing Education and Training (A.C.C.E.T.). In January 1986, I first wrote to Larry Dodds, Executive Director of A.C.C.E.T. (at that time called "Council for Noncollegiate Continuing Education") for information about whether A.C.C.E.T. had accredited Brooklyn Training Center, a proprietary business school about which twelve of my clients wanted to file complaints. I also requested a copy of A.C.C.E.T.'s written procedures for granting, denying and revoking accreditation. Exhibit A hereto. When I had not gotten a response from Mr. Dodds by September 1986, I renewed my request in writing. Exhibit B hereto. Again, I received no response.

On June 18, 1987, I again wrote to Mr. Dodds, this time by certified mail, return receipt requested, requesting information about whether A.C.C.E.T. accredited Brooklyn Training Center, and A.C.C.E.T.'s accreditation and complaint procedures. Exhibit C hereto. On October 13, 1988, having received no response to my three prior letters, I again wrote to Mr. Dodds by certified mail, return receipt requested. Exhibit D hereto. Finally, by letter dated October 24, 1988, Mr. Dodds responded to my prior correspondence by providing general information about A.C.C.E.T.'s membership, and accreditation and complaint procedures. No information about A.C.C.E.T.'s accreditation of Brooklyn Training Center was included. In the interim, through my negotiation with Brooklyn Training Center, the school refunded the student loans for ten of my clients, thus resolving most of the original complaints against it.

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Project Director

Steve Pappas
March 7, 1989
Page -2-

On October 31, 1988 in accordance with the consumer complaint procedures described by Mr. Dodds, I forwarded to A.C.C.E.T. two complaints about Eastern Technical School (ETS), which I learned was one of A.C.C.E.T.'s member schools. Exhibit E hereto. A.C.C.E.T. received my clients' complaints on November 3, 1988. The certified mail receipt is attached as Exhibit F hereto. Subsequently, officials from the New York Regional Office of the U.S. Department of Education, Office of Student Financial Assistance, conducted a program review of ETS during which they investigated my clients' complaints, found substantial violations of law, and ordered the school to repay portions of my clients' guaranteed student loans. To date, I still have not received so much as an acknowledgment that A.C.C.E.T. forwarded to ETS my clients' complaints.

On behalf of one of my clients, , I hereby submit that by the above- described chain of non-events A.C.C.E.T. has, at the very least, failed to make information about itself "publicly available" and to follow its self-described consumer complaint procedure, all in contravention of 34 C.F.R. §602.13. Taking nearly three years to provide me with basic operational and membership information is not being responsive to the public.

I hereby request that, based on the above, the Secretary exercise his discretion to re-evaluate A.C.C.E.T.'s recognition. In the alternative, if a regular re-evaluation pursuant to 34 C.F.R. §602.3(e) is scheduled to take place within the next six months, please add the facts described herein to the information to be considered in reviewing A.C.C.E.T.'s recognition. In either case, I submit that A.C.C.E.T.'s recognition should be rescinded. Please advise me in writing of ED's actions and decision concerning A.C.C.E.T.'s recognition.

Very truly yours,

Elizabeth Imholz

ELIZABETH IMHOLZ
Senior Attorney

EI/civ
Encls.
cc: Dr. Dewey L. Newman
Barbara Heisler Williams
Robert E. Biehl
Mark Williams, New York State Education Department

Towards justice and dignity for all

Por justicia y dignidad para todos

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

MAY 17 1989

Ms. Elizabeth Imholz
Senior Attorney
Brooklyn Legal Services Corp. B
105 Court Street
Brooklyn, New York 11201

Dear Ms. Imholz:

Thank you for your letter of March 7 concerning the Accrediting Council for Continuing Education and Training (ACCET). My apologies for our delay in responding.

We are currently reviewing the petition for renewal of recognition as a nationally recognized accrediting agency submitted by ACCET. The petition and staff analysis of the agency will be reviewed by the National Advisory Committee on Accreditation and Institutional Eligibility at its meeting on June 27-28, 1989.

We will take your letter into account in our review of the ACCET petition and also will bring it to the attention of the National Advisory Committee.

Thank you for you comments.

Sincerely,

Steven Pappas

Steven Pappas
Chief
Accrediting Agency Evaluation

EXTENSION OF REMARKS

Before the

SUBCOMMITTEE ON INVESTIGATIONS

Committee on Governmental Affairs
Senate of the United States

by

Thurston E. Manning
President, Council on Postsecondary Accreditation
One Dupont Circle, N.W., Suite 305
Washington DC 20036

September 12, 1990

Senator Nunn and Members of the Subcommittee:

The Council on Postsecondary Accreditation (COPA) is a private, non-governmental not-for-profit organization. It maintains offices in Washington, D.C. Its members are organizations concerned with higher education and postsecondary education, and are divided into three classes: (1) organizations that accredit colleges, universities and other postsecondary educational institutions; (2) organizations that accredit programs of study within postsecondary educational institutions, those programs preparing persons for entry into recognized professions and occupations; (3) national organizations of postsecondary institutions (e.g., American Council on Education, American Association of State Colleges and Universities).

A fundamental purpose of COPA is to improve the accreditation of institutions and programs in postsecondary education. In working toward that end, those accrediting organizations that are members of COPA must be recognized as meeting an extensive list of Provisions, which describe accepted practices for accrediting organizations. Compliance of COPA member organizations with the Provisions must be reconsidered at least every five years through an elaborate process which includes solicitation of third party comments on the accrediting organizations and hearings open to the public. COPA also provides programs directed at the professional development of persons affiliated with the member accrediting organizations, produces publications about postsecondary accreditation, provides information about accreditation, and cooperates in a variety of ways with other organizations associated with postsecondary education. Thus, COPA is not itself an accrediting body, but serves as a kind of umbrella for those accrediting bodies that meet COPA's Provisions for recognition and elect to stand for examination.

Participation of COPA is voluntary. No accrediting organization is required to be recognized by COPA, and there are some accrediting organizations, including some accrediting a large number of institutions or programs, that are not members of COPA. COPA's activities, like those of its member accrediting organizations, are supported by its membership. Neither COPA nor its member accrediting organizations receive Federal or state funds (except occasional small amounts awarded by grant or contract for the conduct of specific projects related to accreditation).

These hearings are concerned with the defaults on Federally-guaranteed loans made to students in postsecondary institutions. The dollar volume of such defaults is at an unacceptably high level. Accrediting organizations are concerned with this default experience because there is reason to believe that in some cases the defaults were a result of improper or illegal conduct by the institutions (which throws doubt on their integrity), and because in some cases high rates of default have been linked to poor institutional performance in providing educational opportunities for students. The institutions are all accredited institutions, and poor educational performance by accredited institutions raises concern about their accreditation.

It is important to recognize that high default rates are confined to a few of the approximately 8500 institutions whose students participate in Federally-guaranteed student loan programs. These are concentrated strongly among institutions dealing with economically disadvantaged students and offering immediate job entry programs. There is a large concentration of schools with such characteristics among the for-profit sector. However, the data show that public institutions (such as community colleges and vocational-technical institutions) with these characteristics also have high default rates. I mention these facts to emphasize that the default rate problem needs to be considered school by school. Obviously it is even more important also to deal school by school with cases of abuse of the program, which are fewer than cases of high default rates.

The association of accreditation with institutions participating in Federally-funded programs of student aid goes back some 38 years, when loss of GI Bill funding to diploma mills and fly-by-night institutions became known. The Congress elected to use the private accreditation system as a means of identifying institutions of acceptable quality, where Federal funds provided to students would be likely to be well spent on education. To accomplish this, the Congress instructed the Commissioner of Education (now the Secretary of Education) to publish a list of those accrediting agencies found by the Commissioner to be "reliable authority as to the quality of education or training in the institutions or programs they accredit." Use of Federal funds was restricted to institutions or programs accredited by those accrediting bodies appearing on the Commissioner's (Secretary's) list.

That Federal use of the lists of accredited institutions and programs prepared by the non-governmental accrediting organizations has proved generally successful since 1952. Over the years the procedures for preparing the list of accrediting bodies recognized by the Secretary have been codified into regulations, as have the criteria to be used in making the choice of accrediting bodies to appear on the list. A National Advisory Committee on Accreditation and Institutional Eligibility has been formed to advise the Secretary on whether an accrediting body meets the criteria, as well as on the criteria themselves and

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on matters of related policy. A full time staff within the Department of Education prepares materials for consideration by the Committee and the Secretary, and the Committee also has a full time staff Executive Director.

Because the Secretary's criteria for recognition are enunciated in Federal regulations, there has sometimes been expressed the view that the accrediting bodies are regulated by the Secretary. This is incorrect; the accrediting bodies are private, non-governmental organizations, and "recognition" accurately describes the action of the Secretary in placing an accrediting organization on the recognized list.

Thus, there are two lists of "recognized" accrediting bodies: those recognized by COPA, and those recognized by the Secretary. The two lists have substantial overlap, but there are accrediting bodies recognized by COPA but not by the Secretary (the accreditation of these organizations is not used for Federal eligibility purposes because students in their accredited programs are simultaneously students in accredited institutions). There are also accrediting bodies recognized by the Secretary but not by COPA. We estimate that of the approximately 8500 institutions gaining eligibility through accreditation by an agency recognized by the Secretary, approximately 6000 are accredited by an agency also recognized by COPA.

Several groups are concerned that loan defaults can signal abuse of the loan program. Among these are the States; all schools whose students can obtain Federally guaranteed student loans operate under State authorization. The fact is that State statutes dealing with schools vary widely, and in many states are weak and ineffective. Further, even where statutes are fairly satisfactory the States have often not provided resources adequate to vigorous enforcement. These circumstances are not new, and that they are long-standing suggests that they are unlikely to be changed. The potential for abuse of the student loan programs could be reduced by better State control of schools, but change in State control is highly unlikely.

The Department of Education is obviously concerned. The Department grants eligibility to schools to participate in federal loan programs, and certifies a school or its students for particular programs. The Secretary of Education, through the recognition process, identifies accrediting bodies whose accreditation plays a part in providing eligibility to participate in the loan programs.

The accrediting organizations are also concerned; accreditation by an organization recognized by the Secretary of Education is an almost universal component of having a school eligible so that its students can participate in the loan programs. The use of private, non-governmental accreditation organizations for such Federal purposes is specified in statutes as providing a "reliable authority as to the quality of education or training;" thus it is not a use directed primarily at the school's fiscal condition or integrity, or at the use of federal loan programs within a school. Accrediting bodies are interested in such school characteristics (and they are considered in accrediting decisions) from the point of view of their effect on educational quality.

Accreditation's proper concern, then, is whether a high default rate among a school's former students suggests poor educational quality. The facts we have to date suggest that while a high default rate may be associated with poor educational quality, it is more likely to arise from the nature of the students served by the school, the economic sector into which the former students enter, and the nature of the occupation for which the school is preparing students (if there is a specific occupational purpose). These factors are different for different institutions, and a judgment about the relationship of default rate to educational quality must be made school by school. As indicator of educational quality (or of student loan problems), the student loan default rates suffers not only because it is influenced by many factors, but most strongly because the default rate tells about conditions years ago. In 1990 our most recent default data are for the 1988 cohort, reflecting loans made in 1987 and earlier.

We do know that there have been cases of abuse in accredited schools. The nature of the accrediting process is one that is well adapted to making judgments about educational quality over the long run. The accrediting process of institutional self-evaluation followed by a visit from a site team and a decision by the accrediting commission is a lengthy one. It succeeds well in learning about and appropriately evaluating the curricula, faculty qualifications, general financial condition, admissions requirements, educational results of the program, and other elements of educational quality. It is not well adapted to auditing a school's files in detail and uncovering faulty records, identifying individual student problems or monitoring a school's compliance with Federal or State requirements. Thus abuses can occur that are undetected by the accrediting process.

It is also important to keep in mind what accreditation can say about a school. Like other forms of evaluation (for example, financial audits), accreditation can speak about the condition of the school at the time of the evaluation, and can make a reasonable determination about the appropriate continuation of the school. But accreditation cannot guarantee the future condition of the school any more than a financial auditor can guarantee that a corporation will continue to be solvent. The question of changes following an evaluation is one that receives continuing attention from accrediting bodies.

An accrediting body examines a school in detail every few years (the exact interval depends on the accrediting body). Between evaluations the accrediting body seeks to learn of changes within a school through periodic reports. For most institutions this mechanism works well. But on occasion it is inadequate. Schools sometimes do not report changes. More importantly, conditions within some schools can change rapidly -- more rapidly than the accrediting body's monitoring and mechanisms can respond. While the most common problems arising in this way relate to the deterioration of a school (especially a small school heavily dependent on tuition revenue), there have been cases in which rapid growth leading to loss of educational quality has occurred before the accrediting body could intervene.

Of particular concern, both for the effect on educational quality and on possible loan abuse, is the formation of school branches. Within the sector of for-profit schools eligibility for participation in loan programs requires accreditation and a record of at least two years of operation at the school site. Under these conditions a for-profit school cannot be established and participate immediately in the federal loan programs. What happens is that an existing school establishes a branch at another location; students in a branch location of an eligible school can participate in the loan programs. After two years of operation, the branch can (and sometimes does) seek separate accreditation and separate eligibility. In some cases the branch will be sold to different operators, and so a new school created. New locations, like new schools, are fragile, and problems can arise quickly. There have been cases in which student loan abuses occurred in branches because of lack of control from the parent location. Branches represent a particular difficulty for accrediting bodies in detecting problems and responding rapidly to them.

How can the loan programs be changed to help minimize any potential for abuse? I make these suggestions:

The accrediting bodies should

a. Improve school monitoring measures by obtaining more frequent reports of statistical indicators of potential problems in educational quality. Such indicators include admissions numbers and rates; retention rates; placement rates (for immediate job entry programs); volume of student financial aid and sources of student financial aid. No one of these by itself, or even all taken together, will identify problem schools -- but rapid or unexplained changes should be a cause for professional examination to identify the causes.

b. Formalize their present practice of using default rate data as a part of data indicating need for examination of a school.

c. Consider whether present controls on school branching are adequate to protect educational quality.

The Department of Education should

a. Strengthen its recognition process for accrediting bodies by providing recognition decisions quickly following National Advisory Committee recommendations.

b. Modify the recognition process to require concurrence by both the Secretary and the National Advisory Committee in granting or affirming recognition (a change from present practice of having the

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Secretary alone responsible for the decision). This will avoid recognition of accrediting bodies that do not fully meet the recognition criteria, as has occurred in the past. The Secretary should continue to have responsibility for removal of recognition to allow for speedy action when needed.

c. Accreditation should continue to be required in the eligibility process because it provides a necessary judgment of educational quality that the States do not and the Federal government cannot provide. But the eligibility determination should be strengthened by making it rest on more than the accredited status of the school. In particular, eligibility should require that the school

  i. Have representation of the public on its governing board;
  ii. Make annual externally audited and certified financial statements publicly available.

  Most schools meet these requirements now, and making these universal requirements would not be burdensome. These requirements would discourage those tempted to abuse financial aid programs, and would assist in identifying at an earlier point those who do abuse.

Such changes would be salutary. But the Federal loan programs themselves contain systemic problems that open the door to abuse. Dealing with these raises difficult issues of public policy that lie apart from accreditation. Yet unless changes are made in the characteristics of the loan programs that make abuse easy, any changes in the details of how the program is administered will simply be band-aids on a wound requiring surgery.

End

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OCT 01 1990

MAJORITY OFFICE

The Council on Postsecondary Accreditation

September 26, 1990

Ms. Eleanore J. Hill, Chief Counsel
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
Senate of the United States
Washington DC 20510-6250

Dear Ms. Hill,

I am glad to respond for the record to the sixteen questions posed in your letter of September 20.

Question 1
Practice, characteristics, and ownership of proprietary schools seem to change rapidly. Do you think that accrediting agencies should review their proprietary schools on an annual basis in an attempt to monitor change?

Response
The problem with change in the proprietary sector is not necessarily that characteristics of many change rapidly (many schools are very stable), but that the governance structure does not inhibit rapid change, as it does in other sectors. For this reason I believe that a frequent monitoring of for-profit institutions is desirable, and have proposed in my extended remarks that it be done on annual basis. In many cases an annual site visit may not be required, but that decision should rest on the information gathered.

Question 2
As the system is now, do you think there is sufficient control over the proprietary institution?

Response
I believe that the experience we have had with defaults in student loans suggests that a greater degree of control must be exerted over the loan program in all institutions. Annual monitoring of for-profit schools, mentioned above, would be salutary way of increasing appropriate control.

Question 3
Branching has been cited as an area that presents difficulty to accrediting agencies. Do you think we should limit branch campuses to a specific distance from the main school and/or require the branches to teach the same type programs as the main campus?

Response
Branching has presented problems and continues to do so. However, broad general "solutions" are likely to cause more troubles than they cure. For example,

limiting branches to a specific distance from the main school would remove a significant portion of programs offered on military bases -- unnecessarily, since these programs are, by and large, successful. Requiring programs on a branch to duplicate those at the main location would prevent a branch from meeting needs at the branch location, but not at the main site. Branching has been a problem for many years (and not only in the for-profit sector), and as we have improved the accrediting procedures for dealing with branching we have learned that each case needs to be treated as an individual case. In my extended remarks I recommended to accrediting bodies that present controls on branching needed further attention.

Question 4

Is it your impression that more proprietary schools turn bad after they are accredited, rather than that bad schools make it through the review process undetected?

Response

Yes. An examination of the actions of the accrediting bodies dealing with for-profit schools shows that a great deal of care is exercised in granting accreditation, so that I have no basis for saying that a large number of bad schools slip through. There are a number of examples of accredited schools that become troubled for a variety of reasons. And, of course, there are the schools that lose accreditation. This is an action which in itself points to deterioration of a school after accreditation -- and one that the accrediting body is addressing.

Question 5

Do you find that most review teams are predisposed to accredit schools, even when problems are found, because they assume the school will improve with time?

Response

I'm not sure that anyone could make such a statement with respect to most review teams without a careful analysis of the way decisions are made. My experience suggests that, while those participating in the accrediting process are concerned with the improvement of a school, they are more likely to give a school the benefit of the doubt after it is accredited, and to be strict at the point of granting accreditation (that is a general impression not based on detailed analysis. recently attended a meeting of the Commission on Occupational Education Institutions of the Southern Association; a high proportion of schools seeking initial accreditation were denied or deferred to obtain additional information. By the way, the visiting team does not make the accreditation decision; it recommends to the Commission, which makes the decision following its review of the documents and, on occasion, meeting with school and/or team representatives.

Question 6

Do you think that the Department of Education places more reliance on accrediting agencies than these agencies can effectively discharge with periodic visits?

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Response
Yes. For a number of reasons (one of them being inadequate staffing), the Department has sought to rely on accrediting bodies for matters more closely related to administration of Federal programs than to determination of educational quality. As my extended testimony recommended, I believe that the Department's eligibility and certification processes should be strengthened and made to deal explicitly with factors pertinent to the administration of federal financial aid programs, maintaining the use of accreditation for matters of educational quality.

Question 7
Do accrediting agencies verify data that schools provide, or are these data automatically accepted as reliable?

Response
One of the purposes of the site visit is to validate information submitted by a school, as well as to seek additional information. In the examination of information provided the accrediting body is sensitive to the consistence of information, which is also a verification technique. Obviously some information (such as that provided by correspondence) is not subject to immediate independent verification, although here some of it can be regarded as significantly more than a simple submission (e.g., audited financial statements).

Question 8
In your experience, how would you rate the performance of the Department of Education regarding administration of the Title IV program?

Response
The Department has on its staff a number of excellent and well-qualified professionals. Unfortunately, it does not have enough of them; ED staffing dropped steadily during Secretary Bennett's administration, and, while there is now improvement, much more is needed. The Department is also hampered by elaborate regulations which slow down response times and make it easy for administrative miscues to occur. The reasons for a less than sparkling performance by ED are well-known, and my subjective opinion of the past eight years is a C+.

Question 9
Subcommittee staff has been told that dual accreditation is one way that schools protect themselves against having the Title IV money tap turned off. Why would a school seek institutional accreditation by two national agencies?

Response
In my experience the most common legitimate reason is that the school finds its character or programs falling between the predominant concerns of two accrediting bodies; for example, a school offering both business and technical programs. Dual accreditation is quite comment in certain sectors; for example, it is common for theological seminaries to be accredited by both the Association of Theological Schools and a regional commission, often because the seminary offers programs both for those studying for the ministry and for laypersons. So far as

effect on Federal financial aid is concerned, dual accreditation is now a dead issue. Representative Williams of Montana had included in the budget reconciliation act language that makes withdrawal of eligibility automatic if a school has accreditation withdrawn or withdraws itself while under sanctions. There is the safety provision that the Secretary of Education may cause eligibility to be maintained, but it is clear that this is simply available for exceptional cases.

Question 10

Based on your experience, how many "bad" accredited schools are there? Are there simply the proverbial few bad apples that proprietary school industry interests assert, or are there more?

Response

I do not know of anyone who has the information to count the number of "bad" schools, even assuming one could define a "bad" school. There is presumptive evidence that problem schools are few in proportion. For example, the Secretary of Education recently identified that more than 30 percent of all defaulte' loans in the 1988 cohort data were owed by borrowers who attended less than one percent of the postsecondary institutions. That certainly suggests that -- defining "bad" as meaning high default rate and amount -- "bad" schools are a small proportion of the whole. Small proportion or not, we need to reduce both the number and the proportion.

Question 11

Since they are not government agencies, accrediting agencies are not subject to Federal conflict-of-interest limitations. In your experiences, have you seen instances which suggested conflict-of-interest problems in the accreditation process?

Response

Conflict of interest (or the appearance thereof) arises in almost every activity in which important decisions are rendered. The activities of accrediting bodies are no exception, especially because of their reliance on peer review, where there can arise conflicts because of both competition and cronyism. Accrediting bodies have procedural rules seeking to guard against conflict of interest, and these are usually well-enforced. COPA-recognized accrediting bodies must have such rules and in addition must have public representation in policy and decision making processes, thus introducing external participants into the peer process. The Department of Education also examines conflict of interest issues in its review of accrediting bodies. But despite all rules problems do arise: a team member seeks a job with the school just visited; a commission member fails to recuse and enters into discussion of a school in which he has an interest. However, even with the very elaborate Federal rules conflict of interest cases arise. I suspect we will continue to have cases of conflict of interest from time to time, but I must say that in my experience the situation in accreditation has improved significantly over the past fifteen years.

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Question 12
We've heard that site examinations by accrediting agencies are often ineffective in catching bad schools. Do you agree? If so, why?

Response
The correct question is whether the entire accreditation process -- not just the site visit -- is effective in catching bad schools. I know of cases in which the review and decision process following the site visit has resulted in reversing recommendations to accredit, and so the distinction between the site team recommendation and the final decision is significant. I doubt that the process is "often" ineffective, although, as a confirmed believer in human error, I would not be surprised if there were an occasional mistake. What is needed to deal with such allegations is to identify the particular cases and look at them objectively.

Question 13
In your experience, how do accrediting agencies view their function? Do they consider themselves responsible for safeguarding against fraud and abuse in student loan programs? Or do they view themselves more as an advocate for their member schools?

Response
The two questions pose a false dichotomy: one is not necessarily an advocate simply because one declines to monitor student loan programs. Accrediting bodies are in the eligibility process because they are regarded as reliable authorities as to the quality of education or training in the institutions and programs they accredit. They do not have special expertise in the operation and administration of student loan programs, and their procedures and practices are not well adapted to monitoring such programs. This point underlies my response to Question 6 above: monitoring Federal student loan programs is (or should be) the responsibility of the Department of Education. Accrediting bodies are concerned with student loan programs only insofar as they have impact on the quality of education or training; obviously if they observe fraud or abuse they have the citizen's responsibility to speak out. In many cases the investigation of fraud and abuse requires more legal authority than a private association can possess; this is a further reason that accrediting bodies should not be looked upon as monitors or auditors of fraud and abuse in student loan programs.

Nor are accrediting bodies simple advocates for accredited schools. They take actions adverse to schools, they impose requirements for accreditation which some schools find onerous or distasteful, and they require reporting extensive enough to result in a rather steady stream of complaint from schools. Accrediting bodies seek to evaluate schools fairly and equitably, to report their accreditation decisions publicly, and to work to improve accredited schools. It's a dogma of accreditation that however good something may be, it isn't good enough. That's applied to both schools and accrediting bodies. Sometimes I think we apply it so much that we don't let people know how good the present is.

Question 14
In your experience is it common for accrediting agency directors or board members also to be proprietary school owners? Does that create a potential conflict of interest? Have accrediting agencies adopted any ethical standards to prevent potential conflicts in those situations?

Response
This is similar to Question 11 above. Accrediting commissions are composed of persons associated with accredited schools and persons representative of the public interest. If for-profit schools are among those accredited, owners of such schools could, and do, serve on accrediting commissions. The possibilities of conflict of interest that exist are essentially the same as those that arise when presidents of universities serve on accrediting commissions. As mentioned in the response to Question 11, accrediting bodies have rules about conflict of interest situations. One common rule is that no one from the home state of a school under review may participate in the recommendations or decision. In every case, those participating are asked whether there is any reason to recuse, since rules can deal with only the most common possibilities. There have been a few cases in which disaffected institutions have asked the courts to require restoration of accreditation, with conflict of interest being raised as a reason. None of these requests have been successful in the courts.

Question 15
You stated that a proprietary school's high default rate is more likely to be caused by the type of student served, and less likely related to the school's poor educational quality. Do you think, therefore, that a high default rate for proprietary schools should be condoned?

Response
My remarks must have been misunderstood. My view -- and I think this was clear in a colloquy between Senator Nunn and me -- is that there are several factors that increase default rates for student loans. Among these are various characteristics of students served by a school, the occupational purpose of the education or training received, and the quality of the school. Subcommittee staff, in their testimony, had identified as "bad" schools all schools having a default rate of 20% or higher. I think that this is a misuse of default data. It may be correct that a "bad" school has a high default rate, but it does not follow that all schools with high default rates are bad. An examination of the list of 89 schools identified by the Secretary (see Question 10 above) shows such institutions as Milwaukee Area Technical College, Southern University and Long Beach Community College District. All of these schools have default rates well above 20%, but it is not true that they are "bad" schools. It is important that we avoid the easy mistake of equating educational quality with easily available default data; if we misdiagnose the causes of defaults we will prescribe the wrong medicine.

I do not think that a high default rate for any kind of school should be condoned. As my extended remarks make explicit, I believe that default rate data should be used by accrediting bodies regularly to identify possible educational problems. Senator Nunn remarked that a high default rate should be a red flag. I agree.

Question 16
Has COPA ever de-recognized any agencies that it previously approved?

Response
As my testimony stated, some five accrediting bodies recognized by COPA were later dropped from the recognized list. I mentioned the case of one that declined to change its procedures to conform to COPA's Provisions when they were revised, and as a consequence withdrew. In other cases we do not know why withdrawal occurred, although in some questions had been raised about the conduct of the organization. We have not had a case in which the accrediting body persisted in seeking recognition to the point that a final negative decision was rendered. That seems reasonable: no rational accrediting body would pursue COPA recognition to the point of a public decision when it becomes clear during the process that the decision is likely to be adverse. We have in the COPA files inquiries and/or submissions of information from about 100 organizations that either wished to begin accreditation or were doing accreditation and were considering seeking COPA recognition. None of these pursued the matter after receiving written information and/or consultation with COPA staff.

I hope these responses are helpful to the work of the Subcommittee. I would of course be glad to provide additional information.

Yours sincerely,

Thurston E. Manning
President

STATEMENT
OF
DEBORAH DAVISSON DE VRIES
PRESIDENT, RESOURCES DEVELOPMENT ASSOCIATES

BEFORE THE
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

HEARINGS ON
ABUSES IN FEDERAL STUDENT AID PROGRAMS, PART 2: LICENSING, ACCREDITATION, CERTIFICATION AND ELIGIBILITY
SEPTEMBER 12, 1990

* * *

Opening

Good morning, Mr. Chairman and Members of the Subcommittee. I am pleased to be here this morning to testify and contribute to the Subcommittee's investigation into student loan defaults, particularly those issues relating to proprietary schools and accrediting agencies. For 50 months, I worked for a nationally recognized accrediting agency. I now have a job elsewhere: I work as a consultant to proprietary schools and businesses. In addition, I work with the State of California in reviewing schools applying for a license.

Educational and Experiential Background

My name is Deborah Davisson De Vries. I am 41 years of age and currently reside in California. I have a bachelor's degree in history and humanities, from the University of California at Los Angeles (1971), and my master and doctorate degrees in education (curriculum design and evaluation of programming) from the University of Southern California (in 1975 and 1981, respectively). My employment history in adult education began 1974, when I worked in Okinawa, Japan, for the Department of Defense at Camp Hansen Marine Base, as a lead teacher and as the director of an adult high school. While I was there, I helped 1700 Marines receive their high school diplomas. While there, I also coordinated the accreditation process through the North Central Association of Colleges and Schools. After that period overseas, I worked at a learning center for adults, preparing adults for GED testing. The predominant population I worked with in this regard were native Americans from five different Southwest tribes.

After that period, I worked at Luke Air Force Base in three different capacities. I was the director of the I.D.E.A. Program, a remediation and basic skill training center designed for enlisted men who were having difficult completing on-the-job training or in passing promotion tests. In addition, I worked for the Tactical Air Command, pilot teacher training program, the academic instructor course. Part time during this time, I taught for Embry-Riddle Aeronautical

University, Park College, Golden Gate College, Rio Salado Community College, and Glendale Community College, in a variety of subject areas, including history, humanities, freshman English, English as a second language, and literature. I taught remedial through master's level classes.

As a volunteer, I worked in various official and unofficial capacities with the Arizona Adult Education Association, the Mountain Plains Adult Education Association, the American Association of Adult and Continuing Education, and the Commission on Adult Basic Education. In these roles, I became active in lobbying to bring awareness and understanding of student needs to those in decision-making roles.

My specific educational and experiential ability and background led me in 1984 to the position with the Council for Non-collegiate Continuing Education (CNCE), later called the Accrediting Council for Continuing Education and Training (ACCET).

Description of Work with CNCE/ACCET

In my position at CNCE/ACCET, I worked for 50 months in various capacities. My first job title was assistant director, then associate director, then vice president, and finally vice president for accreditation. My job duties included, among other activities, coordinating applicant readiness, scheduling on-site visits, training commission representatives and team members, conducting on-site visits, developing and conducting applicant training workshops, coordinating commission meetings, and representing ACCET at various State and professional meetings.

In that time period, I participated in over 250 school site visits, in various capacities such as public relation, branch visits, pre-accreditation visits, initial accreditation visits, and re-accreditation visits.

In this visitation capacity, I observed programs and individuals who provided exemplary care and commitment and those who were callous and cold-blooded in their obvious pursuit of personal recognition, money, and/or power.

I saw programs begin as very small, unsophisticated "Mom and Pop" organizations with as few as 20 students, in one location, and watched them grow after accreditation to programs with 50 to 100 employees, and 500 to 1000 students, at several different sites.

Analysis of Accreditation Experience

There is no magical answer or clue to be able to distinguish healthy growth and change from a Jekyll and Hyde growth and change. Some schools were able to evolve stably and with dignity, and others, unpredictably, would fall victim to the new power and wealth they acquired, and lose the ability to manage or educate effectively. There is disease facetiously labelled "Mercedes Mania." It is a disease which may affect an orderly, hard-working, honorable "Mom and Pop" school owner, when he/she begins receiving lump sums of money several days in succession, when the first Guaranteed Student Loans (GSL) checks start arriving. For individuals who have routinely been dry on the payment side, who've been going without salaries, and working 14- to 15-hour days, sometimes this lump sum series of payments becomes debilitating. The first recognition that he/she will be successful is to prove it is real, by buying a Mercedes. After that, it is possible things will never be the same.

The biggest "sin" was hubris of ego, or rather, believing that the flaws of others could not possibly apply personally, and that there was no relation between delegating, managing, and planning, and the avoidance of corruption, developing a lack of dedication, or a loss of understanding of mission.

There was a major change in an underlying premise of owners of schools that I observed in my tenure of service, and what happened at my agency, I believe, was a microcosm of what was occurring everywhere.

When I began work with CNCE/ACCET, my organization was composed of 144 continuing education programs. I believe that only three (2%) of these used accreditation to access Title IV funds. The others used accreditation as a public approval/consumer assurance avenue, and utilized the structured aspect of self-evaluation and its model provided by accreditation as a tool for self-improvement.

Many changes had occurred by the time I left CNCE/ACCET there were close to 400 different continuing education programs accredited by ACCET, and the number of programs accessing Title IV funds was close to 50% of that number. In addition, I believe many of the basic variables had changed. When I first began at CNCE/ACCET, change of ownership, addition of branch locations, and addition of new course requests were very rare. By the time I left, there were about 100 requests for changes each month.

I believe that during this time, there was a dramatic change in the goals and philosophy of school owners, but not of the oversight authorities, State, Federal, and accrediting. In 1984, there was a rather special and consistent bond among teachers and educators. There was a basic premise that individuals were commonly involved in education because of a need and a love to nurture others. Similarly, the oversight organizations saw their role to be a collegial nurturing and encouragement of educators to develop the tools and skills for continual self-evaluation, which is after all the particular purpose of the accrediting bodies.

There was not a need, or at least, not a common perception that the State government or accrediting agencies needed to be policemen.

In reality, the rules of the game changed without a recognition by the oversight individuals. Major changes in the school-oversight relationship occurred, albeit innocuously, when schools were owned and managed by businessmen and lawyers, rather than social servants and educators. What made sense to a businessman was slow to be recognized by accrediting agencies who needed to become pro-active in legislation, governing procedures, fee structure, and staffing. To effectively keep the intent of accreditation in place.

As an example, my agency had no specific standard (standards are the rules by which schools abide to become and/or remain accredited) which stated that unethical behavior would not be permitted. So although a visiting team might have suspicions about the lack of integrity of a specific procedure, unless that activity clearly fit under one of the standards, it was very difficult for the agency to take any action. (At my suggestion, a standard stating that "an honest and ethical intent is implied by all communications," was added.) However, prior to that time, an institution could not be issued a show cause letter stating why its accreditation should be withdrawn, because no specific, literally specific, standard had been violated.

I will go into greater detail on the legal restraints inhibiting accrediting agencies from weeding out bad schools later in my testimony. Suffice it to say, that although it may seem like common sense, the maturation process to match the sophistication level of the changing genre of owners was neither clear nor manageable.

Summary Analysis: How Bad Schools Get in the System and Stay There

If I were to analyze in simplistic terms how bad schools get into the accredited system and how they stay there, I would offer four simple explanations.

1. Accrediting agencies and the other accrediting agencies have not matured as rapidly as the bad schools.

If a school deliberately wants to lie, cheat, and steal, it will go to great lengths to insure that it succeeds. These charades go beyond what is anticipated or expected by reasonably knowledgeable visiting teams. Several instances illustrate my point. In one instance, actors were hired to pose as students to be interviewed by the visiting team. On another, computer programs and hundreds of pages of supporting documentation were created to establish false financial trails. In another case, refund checks were written and ledgers were made -- all for checks never mailed to students. Finally, in another case, over 100 student files were completely fabricated to establish a list of graduates who did not exist. In each of these instances, eventually the facts came out, but the nurturing educational system of old was not equipped to go into a school review and detect these charades.

2. The legal system is on the side of the owners.

Owners of schools can hide for years behind due process and the court-assessed value of a school to keep accrediting agencies (and sometimes Federal and State agencies) from taking actions against them.

3. The oversight organizations do not function as a unit.

There is a recognizable lack of communication among oversight agencies. Part of this is due to petty jealousy, and part to bureaucratic territoriality. The other aspect which gets in the road of clear communication is a bureaucratic lack of being able to efficiently communicate vital data. At times, with no malice, basic details have not been communicated to vital sources. For example, the State of California policy on how a branch must or must not be approved has changed drastically. Without formal notification of policy, a California official sent a curt letter notifying my accrediting agency that the procedure in the State did not require dual approval of the branch, and that the accrediting agency approval was enough, and that our request for State approval prior to granting approval was overburdening the State. Then, later, with no notification from the State, another terse letter was sent mandating my agency's compliance with the State regulation which insisted State approval was mandatory before the accrediting agency had any authority to approve a branch.

4. There are conflict-of-interest issues which do not have effective direction or appeal procedures.

Fee structures of accrediting agencies represent one example. Accrediting agencies are supported by their members.

There is a tendency among human beings who have been given relative power to become a bully. A bully is defined as someone who has authority to provide a needed service, accessibility to funding, or specialized information, and who isn't able to review the situation from the recipient's point of view. A bully is also someone who doesn't care about the fairness and justness of decisions because he knows that there is no reasonable way to be challenged.

Because of the tendency of some to use power unfairly, aspects of bribery, extortion, and unresolved grievance occur.

Bully Syndrome

I have witnessed and heard of cases where schools have felt compelled to perform certain actions, give certain gifts, or spend money in ways not mandated by any procedures, because it was felt these actions must be done in order to maintain the status quo, to attain or retain accreditation, Federal funding, or State recognition. There needs to be an ethical code which is clearly disseminated to school owners and to accrediting agencies, in the same way that schools are now giving students a bill of rights prior to admission.

If a school owner/accreditation applicant is told he must pay "special" consulting fees prior to being accepted for accreditation review, he might not know what his rights are legally, or how to officially discover whether or not this is a legitimate fee or a pay-off. There is currently no line of demarcation.

If a school owner is asked by any employee of the State, accrediting agency, or Federal government to pay or donate for possible, actual, promised or performed, special consideration, there is no authority or documented procedure which can or does outline the consequence of saying no. Therefore, any action, from requesting a special donation of equipment to an expanded travel fee to an actual payment of a fee, represents a decision for which the school official has no clear choice, no option to say "no" without feeling or becoming vulnerable. When we permit systems to operate without publishing a commonly acknowledged code of conduct or an official appeal or clarification procedure, we in effect condone "bullying" as a way of life. The consequences to the quality of our system are subliminally poisonous.

In conclusion, it is my belief that many of the problems we are discussing here, today, have a direct correlation to this "bully syndrome" and the lack of a "bullied bill of rights." The victims are everywhere: the students, the school owners, the accrediting agencies, the tax payers.

We must be sensitive to the fact that there are actually bullies, and perceived bullies, we should understand that the perception of bullying is just as debilitating as actual bullying. For example, asking directly or indirectly for donations to an organization, especially if an institution is in the process of seeking or re-establishing its accreditation, the request for donation might be perceived as being a command rather than a request. Suppose, for example, that an individual on a visiting team makes the same request for donation or special treatment, implying (whether stated or unstated) that routine accrediting procedures may be simplified for the donor. This represents another case where the perception of demand rather than request, in reality, becomes bullying.

Description of the Need and Role of Good Schools

We have spoken about how bad schools get in the system, and how they remain. I would also like to explain, for the record, how good schools get in the system and why we need for them to remain, and not be casually grouped with those who violate our faith in the educational system.

World Without Vocational Schooling

I ask you to imagine for a moment what would happen if there were no secretaries with word-processing skills no auto mechanics, and computer technicians. Imagine that even if they existed, they had learned to work by trial and error rather than in structured educational training programs.

What you have imagined is a world without vocational technical education. What you have imagined is what would result if the millions of students whose unique skills and abilities could not be developed by traditional means because they were denied the educational funding they so desperately need. Given the disproportionate representation of lower socioeconomic-level students in private career schools, denying these students aid is tantamount to chaining the slowest runner to the starting gate.

Financial Benefits of Vocational Training

A report from Stanford University's Center for Educational Research indicates that each year's class of high school dropouts over their lifetimes costs this nation nearly $296 billion dollars in lost earnings and ungenerated tax income.

Private career schools are needed to help turn this national debit into a national credit. America needs schools which produce lawyers, doctors, and rocket scientist, but we also need school which turn out working-class Americans who contribute to the tax base rather than detract from it. Private career schools provide training that is not offered elsewhere and cater to students that others do not.

Perhaps a solution to some of the pain that vocational training students have suffered at the hands of unscrupulous business entrepreneurs masquerading as nurturing educators is to set a new structure for checks and balances which will encourage the behavior we see as worthy, and discourage or eliminate those which we find repugnant. If we must have regulations, they must be clearly stated, clearly communicated, and even more clearly focused. Governmental agencies have spent far too much time and effort drafting and re-drafting regulations which approached problems to date, but never seemed able to resolve them. We have used an axe and a blindfold to address problems that are best resolved using a microscope and scalpel.

Need for Common Mission and Philosophy

There is a need for cooperation and a common sense of mission and philosophy. In the past, the individuals involved in education, and training, either in reality, or in public perception and actions which usually matched the public perception, were based with a teaching and nurturing premise. They weer at heart, interested in growth and building, and the literal meaning of the word education, i.e., "to lead out." At that time, the guidance given by the Department of Education, State authorities, and the accrediting agencies, assumed that educators only need a professional bonding, and that the basic level of interest would always be something held in common: to educate.

The nature of the common bond dramatically and graphically changed without a concomitant change in the guiding bodies, either in their rules, their philosophies, or their actions.

Accrediting agencies, State departments of education, and the Federal Department of Education seem to work semi-independently. The basic need today is to collectively assess what it is that we really want to happen. Then the next step is to look at what we are doing and to determine if all our efforts will encourage the same results.

Need for Clarity of Focus and Clarity of Communication

One of the first steps is to recognize that what we are doing as educators, in varying capacities at the State, Federal, and accrediting arena levels are mismatched combinations of monitoring, policing, and guiding, There is a lack of clarity of focus and, in particular, a lack of clarity of communication.

The unscrupulous, corrupt school owners escape the scrutiny because the accrediting agencies don't communicate with States, and vice versa; the States don't communicate with the Federal Department of Education, and vice versa; and the accrediting agencies don't effectively communicate with the Department of Education and vice versa. What happens is that no one body effectively sees the whole picture, and regulates and enforces, and creates standards, procedures, and/or laws which could monitor and structure the entire system.

Who Will Police

The Federal level has assumed without ever validating the fact that the accrediting agencies will want to change their roles to become policemen. In reality, even a minor change in the way standards are interpreted by accrediting agencies can have enormous consequences. For example, the decision to be more cautious, to slow the ability for schools to add branches by an accrediting agency is a major undertaking. First, policy needs to be written, approved, and disseminated to membership. Accrediting agencies must be sensitive to the fact they may be sued for restraint of trade. Additionally, extra personnel may be needed to enforce this decision to become more policeman-like, even in one area. Extra personnel means increased fees for members who are likely to see this as not getting the same type of scrutiny/service they expected.

Some of the State agencies have vacillated internally and externally in their roles as approval agencies or policemen. In the last few years, several of the States have taken the initiative to become stronger in the policing function. Several States have also changed their relationship with the accrediting agencies, first in seeing the accrediting agency's function to approve certain procedures in lieu of the State, and then to be angry with the accrediting agencies for not doing the job the way the State either thought it was being done, or the way that it later determined to be more effective.

Like a family that is going through the pains associated with maturation and adolescence, the growth of the changing school position and the regulatory bodies has been a stormy one, based on a lack of clarity and communication. There have been needs which have not been addressed, and when the repair is being made there has been exaggerated blame and frustration. There is a desperate need for clarification of goals, and a concentrated and communicated effort to coordinate the focus.

If, for example, it were determined that the regulating bodies had in common the basic premise of serving as a consumer protector then the actions and regulations from the State would always have a basic premise to fall back upon. More importantly, if the mission were commonly understood, State, Federal, and accrediting agencies (and agencies such as the Veterans' Administration) would naturally be acting from a common and basic foundation.

The next benefit of a clear mission, such as student protection, would be that it would then be easier to set up communication channels, and focus information-gathering so that it would find vital information.

The changing nature of the student population is an expression of success of the ability of the Higher Education Act of 1965 to make it possible for a broad mix of citizens to have educational opportunities.

What We Can Do Now: Focus Our Actions; Communicate Effectively

-- Re-affirm the roles among the triad: State licensing, peer accreditation, and Federal eligibility.

-- Clarify specific roles for each part of the triad, and the need for mutual communication and interaction.

-- Promote integrity and accountability in the delivery of private, vocational training.

-- Streamline the Federal financial aid delivery system.

The Triad Partnership Need for Coordination

The partnership -- the triad relationship among the State, Federal, and peer review accreditation -- can only succeed if all of the partners are involved and committed to the same principles and letter of the law.

It is in the national interest for the Federal government to facilitate coordination among the various partners to maximize the use of State, institutional, and private resources and efforts.

It is essential that the various procedures and processes be coordinated. In the past, delivery and monitoring systems have been addressed through various voluntary actions, rather than through a strategic and focused management of communication and results.

Growth in numbers and in motivation of school owners has created confusion, complexity, and duplication of efforts that frustrate all involved.

Existing internal and external procedures among and between States, and accrediting agencies, as well as the Department of Education need to be coordinated, and even regulated with consistency. The sequence of actions and activities of the various sources of information need to be effectively and efficiently communicated and delegated. For example, an accreditation site visit has no normal and reasonable mechanism to gather information from other agencies, such as State licensing agencies, or the Federal program review for audits, or the Veterans' Administration. For reviewers on one site visit to accurately know what has occurred before sometimes takes a detective. The process of accreditation is based on the premise of self-evaluation and peer review. It is not reasonable to expect that the peer reviewers are going to know the exact match of questions to determine what information other agencies might have asked for or gathered.

Legal Constraints Block Accrediting Role

In addition, there are constraints for legal due process protection that definitely discourage one agency from freely providing another agency with information which might be considered either slanderous or libelous. In our litigious society, it behooves the differing agencies to maintain a low profile, and not get involved in any procedure unless it could be defended easily in court. Somehow, this situation needs to be improved. There needs to be a collective recognition that accreditation is not a right; it must be earned. At the same time, it must be recognized that the rules for accreditation cannot change irresponsibly. Institutions and student consumers have a right to professional behavior.

Fragmentation of Effort

What has tended to happen is that each element of the triad has specialized in certain aspects which have seemingly evolved as part of its purview, without any public acknowledgment of this procedure or recognition of how fragmented a situation this can cause. Three approaches by different agencies will be described which illustrate the lack of any one organization being able to see the total picture. For example, on a school visit by the California Student Aid Commission, owing to the intensive review of files, and the interviewing of the students, the reviewer did not have time nor the mandate to review any class in session, or to even view the facility. On an accreditation visit, the team spent extensive amounts of time reviewing the facility and classes, and interviewing students and staff, but did not gather any information about a recent licensing dispute, or a withdrawal of approval from the Veterans' Administration. A Federal program review will thoroughly look at the financial posture, but may not know that the text materials are totally inappropriate for the current student population. In some ways, it often appears as though the famous camel designed by a committee is the model for the triad conception and approach to what the ideal vocational, or post-secondary school will be.

In addition, the recent acknowledgment of the triad concept needs to be regularly re-evaluated and expanded. Perhaps the concept should not only be the licensure or authorization from the State, the Federal program eligibility process and the voluntary accreditation process, but should expand to include the private lenders and guarantors. Legislation should enhance coordination among the oversight entities and clearly recognize the responsibilities of each. Failure to comply with established and approved policies and practices should result in funding and eligibility restrictions sufficient to discourage abusive practices by institutions, agencies, students, or other recipients of Federal funding.

Coordination of Resources

There is a need for better coordination of resources to improve access to educational opportunity. The Department should focus on program administration rather than efforts to determine academic quality -- issues which have been delegated to State regulators and accrediting agencies.

The focus can be simplified. Rather than trying to serve two functions, approving accrediting agencies and approving school institutional policies which are already regulated by accrediting agencies, the Federal Department of Education could concentrate its efforts on the publication of relevant, accurate, and pertinent facts, such as the cohort default rate. The Department of Education could concentrate on developing clear criteria so that the accreditation process can fulfill its delegated role.

Recommendation for the Role and Responsibility for the Accrediting Agency

The accrediting agency is the appropriate partner to evaluate and determine academic quality, and integrity of schools.

It is recommended that accrediting agencies be permitted to establish a program of arbitration to eliminate or minimize the exposure to frivolous litigation that could render an agency financially insolvent and cause needless and unnecessary delay in the agency enforcing its standards, policies, rules, and procedures.

-- Legally, accreditation should not be declared as property, which thereby bars the agency from enforcing its provisions when a voluntary reorganization occurs in the bankruptcy courts.

-- Criteria must be developed to eliminate the abuse from untimely and inappropriate opening of branch campuses. Institutions should be prohibited from developing branch campuses which do not offer like or similar programs of study as the main campus. For example, additional or different curricula should not be offered during the first two years of the branch operation.

-- Institutions that undergo a change of ownership should be prohibited from branch activity for a minimum period of two years, which is the procedure necessary to begin initial accreditation. This would help eliminate the business incentive of opening a branch.

-- Schools should also be mandated by accrediting agencies to publish graduation and employment rates of graduates prior to applicants completing the enrollment process.

-- Substantive criteria must be developed to ensure that all programs for students fulfill a defined and creditable employment need. Statistical data must be available to demonstrate an adequate employment potential for the graduate at a wage comparable to the tuition investment.

One of the biggest changes has been the dollar-value appeal in buying a school's accreditation, by purchasing the school. According to a recent bankruptcy court decision involving accreditation and a school, accreditation was valued at $150,000. Many changes of ownership have occurred which violate the intent of the two-year accreditation trial period. Accreditation then does not have the same consumer protection process as it once did. It has been accepted that it takes two years for an institution to prove itself, and after that time, the students will no longer have to be guinea pigs for the beginning development phase. When the intent of the two years of continuous successful operation is ignored by permitting accreditation to remain even after many, small approved changes -- such as change of owner, change of location, change of size (several new branches), and/or change of curriculum occur -- the basic consumer protection offered by the two-year requirement is nullified or mitigated.

Role and Responsibility of the Accrediting Agency to the Ability of Benefit (ATB) Student

It is important to realize the elimination of the ATB student would cause economic and social chaos. Today, the number of dropouts is close to 1,000,000 annually. It has been estimated to cost almost $25,000 per year to provide social services to those who are high school dropouts. The national bill could be $25 billion dollars (according to the College Board, 1987). Nationally, more is paid for one million dropouts than is paid for student aid for 12 million post-secondary students. All members of the higher education partnership must accept reasonable responsibility and adopt appropriate steps to insure that this population is effectively served.

This is an appropriate function which State and Federal agencies can delegate to the accrediting agencies. Accrediting agencies are in a unique position to adopt criteria to better serve this student.

-- One step would be for accrediting agencies to require school owners to demonstrate, with appropriate documentation, its retention, graduation, and employment rates of its non-high school graduates, and to set minimum acceptable graduation rates.

-- Abuses by all post-secondary institutions can best be curbed and eliminated by accrediting agencies in cooperation with the Federal Department of Education and appropriate State agencies. This is not well coordinated now by all agencies. School owners, mangers, and employees should be fully accountable for all actions and should be prosecuted to the full extent possible when convicted of fraud or intentional misuse of student aid funds.

Concluding Remarks to Address These Problems

The biggest problem now is a lack of cohesiveness in goals and purposes. The second problem is lack of structure for communication of key information. The first step is to recognize this problem. The second step is to recognize this problem. The second step is learning to separate the desirable from the undesirable without losing sight of the goal. The desirable is to build the collective brain, education, and employment resource of our country. The undesirable is abuse of power at the State, Federal, accrediting, institutional, and borrower levels.

I believe that we need to cooperate at all levels, in affirming what we must have, and eliminating what is disruptive, negative, and destructive. It takes courage, foresight, and leadership to do this. I support, in both personal and professional ways, this responsibility, obligation, and vision.

Thank you for the opportunity to testify.

I will be happy to answer any questions you may have.

HEARING FOLLOW-UP QUESTIONS
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

BY

DR. DEBORAH D. DE VRIES
PRESIDENT, RESOURCES DEVELOPMENT ASSOCIATES

1. PRACTICES, CHARACTERISTICS, AND OWNERSHIP OF PROPRIETARY SCHOOLS SEEM TO CHANGE RAPIDLY. DO YOU THINK THAT ACCREDTING AGENCIES SHOULD REVIEW THEIR PROPRIETARY SCHOOLS ON AN ANNUAL BASIS IN AN ATTEMPT TO MONITOR THE CHANGES?

YES. HOWEVER, ACCREDITING AGENCIES CURRENTLY DO REQUIRE ANNUAL REPORTS. PERHAPS, THE DETAIL AND RANGE OF INFORMATION REQUESTED COULD BE AUGMENTED. THEN, RANDOM SPOT VISITS TO VERIFY ADDITIONAL INFORMATION, OR TO VALIDATE SPECIFIC ITEMS WHICH ARE RED-FLAGGED (IN THE ANNUAL REPORT) COULD BE COORDINATED. IT IS UNREASONABLE, LOGISTICALLY AND MONETARILY TO VISIT ALL SCHOOLS ANNUALLY.

2. AS THE SYSTEM IS NOW, DO YOU THINK THERE IS SUFFICIENT CONTROL OVER THE PROPRIETARY INSTITUTION?

NO. IN ADDITION, THERE ARE CONSTRAINTS THAT PROHIBIT ACCREDITING AGENCIES FROM RE-ADJUSTING CONTROL MECHANISMS SIMPLY. FOR EXAMPLE, DIFFERING STATE REGULATIONS, COURT PRECEDENT AND EVEN DOE REGULATIONS BECOME BUREAUCRATIC WALLS WHICH ARE DIFFICULT TO SURMOUNT. I BELIEVE AS I STATED IN MY TESTIMONY, THAT ACCREDITING AGENCIES NEED TO BECOME PRO-ACTIVE IN DETERMINING NEED FOR NEW MEASURES.

3. BRANCHING HAS BEEN CITED AS AN AREA THAT PRESENTS DIFFICULTY TO ACCREDITING AGENCIES. DO YOU THINK WE SHOULD LIMIT BRANCH CAMPUSES TO A SPECIFIC DISTANCE FROM THE MAIN SCHOOL AND/OR REQUIRE THE BRANCHES TO TEACH THE SAME TYPE PROGRAMS AS THE MAIN CAMPUS?

YES, I BELIEVE THAT BRANCHING REGULATIONS NEED TO BE REVISED. I BELIEVE SOME COMBINATION OF CHANGES (SUCH AS THE ONES I SUGGESTED IN MY TESTIMONY) NEED TO BE CONSISTENTLY IMPLEMENTED. ULTIMATELY, I BELIEVE ALL BRANCHES SHOULD SEEK TO BECOME FREE-STANDING ACCREDITATED INSTITUTIONS. IN THIS WAY, BRANCHES

COULD BEGIN IN A PROTECTED STATUS WITH APPROVAL, BUT THEN BE REQUIRED TO PROVE FULL OPERATIONAL SKILL BY BECOMING INDEPENDENTLY ACCREDITED.

4. IS IT YOUR IMPRESSION THAT MORE PROPRIETARY SCHOOLS TURN BAD AFTER THEY ARE ACCREDITED, RATHER THAN THAT BAD SCHOOLS MAKE IT THROUGH THE REVIEW PROCESS UNDETECTED?

YES, AS I HAVE STATED IN MY WRITTEN AND ORAL TESTIMONY, I BELIEVE THAT POWER, MONEY, AND LACK OF CLARITY OF MISSION, AMONG OTHER TRAITS, CONTRIBUTE TO A NEGATIVE CHANGE IN SCHOOLS AFTER ACCREDITATION.

5. DO YOU FIND THAT MOST REVIEW TEAMS ARE PREDISPOSED TO ACCREDIT SCHOOLS, EVEN WHEN PROBLEMS ARE FOUND, BECAUSE THEY ASSUME THE SCHOOL WILL IMPROVE WITH TIME?

NO. FIRST I WOULD LIKE TO CORRECT THE IDEA THAT TEAMS ACCREDIT A SCHOOL. THE TEAM IS A FACT FINDING BODY WHICH SERVES AS THE EYES AND EARS FOR THE ACCREDITING COMMISSION. ACCREDITATION IS BASED ON SELF-EVALUATION AND PEER REVIEW AS A PREMISE. THE ANALOGY IS MEMBERSHIP IN AN ELITE CLUB. THE TEAM MEMBERS WANT NEW MEMBERS TO BE "UP TO THE STANDARD." THE ANSWER TO THE INTENT OF THIS QUESTION, IS THAT I DO NOT BELIEVE THERE IS A "GOOD OLE BOY" REVIEW PRACTICE BY VISITING TEAMS.

6. DO YOU THINK THAT THE DEPARTMENT OF EDUCATION PLACES MORE RELIANCE ON ACCREDITING AGENCIES THAN THESE AGENCIES CAN EFFECTIVELY DISCHARGE WITH PERIODIC VISITS?

YES AND NO. I BELIEVE THE DOE PLACES MORE RESPONSIBLITY ON ACCREDITING AGENCIES THAN THEY ARE PREPARED AND HAVE BEEN WILLING TO ACCEPT, AND MORE IMPORTANTLY, THAN HAS BEEN CLEARLY AGREED UPON. I HAVE EXPANDED ON THIS LACK OF CLEAR COMMUNICATION BETWEEN AND AMONG AGENCIES IN MY TESTIMONY. IN SUMMARY, I DON'T BELIEVE THAT THE DOE OR ACCREDITING AGENCIES HAVE RESPONSIBLY ACTED AS TAXPAYER OR CONSUMER ADVOCATES IN ASSURING THAT WHAT IS DETERMINED AS NECESSARY CRITERIA ARE CUMULATIVELY MET AND ENFORCED.

7. DO ACCREDITING AGENCIES VERIFY DATA THAT SCHOOLS PROVIDE, OR ARE THESE DATA AUTOMATICALLY ACCEPTED AS RELIABLE?

THERE IS NO CLEAR CUT ANSWER TO THIS QUESTION. IT SHOULD BE UNDERSTOOD THAT A BASIC PREMISE OF ACCREDITATION IS THAT OF SELF-EVALUATION. AS I HAVE STATED IN MY TESTIMONY, IF A SCHOOL DELIBERATELY WANTS TO FOOL A TEAM, OR TO LIE, THE PROCEDURES AS DESIGNED WILL NOT NECESSARILY DISCOVER THIS.

I BELIEVE THAT TEAM MEMBERS VERIFY CERTAIN ASPECTS, AND BASED ON CONGRUENCE WITH THE SELF-EVALUATION REPORT INVESTIGATE MORE THOROUGHLY, OR TEND TO REVIEW PRESENT EVIDENCE WITHOUT GOING THROUGH EXTENSIVE REVIEW. FOR EXAMPLE, IF ONE WERE TO CHECK REFUND CHECKS, AND LEDGER CARDS FOR STUDENTS AND FIND THEY WERE IN ORDER, FINANCIAL FILES WERE IN ORDER, AND COPIES OF STUDENT REFUND CHECKS WERE IN ORDER, A TEAM MEMBER WOULD ASSUME THAT THE REFUNDS WERE MADE ACCORDING TO PROCEDURES PROVIDED BY THAT EVIDENCE. A CASE THAT I RECALL, HAD ALL OF THIS APPARENT EVIDENCE THAT ITEMS WERE IN COMPLIANCE, AND YET LATER WE FOUND OUT THAT EVERYTHING HAD BEEN FORGED AND FAKED FOR THE TEAM. I BELIEVE THAT THE AVERAGE REASONABLE VISITING TEAM IS NOT PREPARED FOR SUCH GROSS DISHONESTY.

8. IN YOUR EXPERIENCE, HOW WOULD YOU RATE THE PERFORMANCE OF THE DEPARTMENT OF EDUCATION REGARDING ADMINISTRATION OF THE TITLE IV PROGRAM?

I DO NOT BELIEVE THAT I HAVE THE EXPERTISE TO EVALUATE THE PERFORMANCE OF THE DEPARTMENT OF EDUCATION. I DO KNOW OF INSTANCES WHERE EXTREMELY DEDICATED DOE INDIVIDUALS HAVE HELPED SCHOOLS CLARIFY AND UNDERSTAND THE PROCESS. I ALSO KNOW OF INSTANCES WHERE THE DOE BUREAUCRATIC PROCESS CREATED MAJOR HEADACHES AND UNNECESSARY FRUSTRATION FOR SCHOOLS, STUDENTS AND THE PUBLIC. IF YOU ARE ASKING WHETHER I BELIEVE THAT THE DOE HAS THE MECHANISMS IN PLACE TO THOROUGHLY, EFFICIENTLY, AND EFFECTIVELY REGULATE AND POLICE THE TITLE IV UTILIZATION PROCESS, MY ANSWER IS NO, THAT PROCESS HAS NOT BEEN EFFECTIVELY DESIGNED OR IMPLEMENTED.

9. SUBCOMMITTEE STAFF HAS BEEN TOLD THAT DUAL ACCREDITATION IS ONE WAY THAT SCHOOLS PROTECT THEMSELVES AGAINST HAVING THE TITLE IV MONEY TAP TURNED OFF. WHY WOULD A SCHOOL SEEK INSITUTIONAL ACCREDITATION BY TWO NATIONAL AGENCIES?

DUAL ACCREDITATION MAY HAVE ONE MOTIVATOR TO SERVE AS A DOUBLE FULFILLMENT OF THE NECESSITY OF HAVING ACCREDTITATION IN ORDER TO BE ELIGIBLE TO DISBURSE TITLE IV FUNDS; HOWEVER, THERE ARE OTHER REASONS WHY A PROGRAM MAY SEEK DUAL ACCREDITATION. FOR EXAMPLE, A SCHOOL MAY BE ACCREDITED BY AN AGENCY THAT ONLY ACCREDITS SPECIFIC PROGRAMS, AND ACCREDITATION BY AN AGENCY THAT ACCREDITS INSTITUTIONALLY MAY BE APPROPRIATE TO SERVE THE STUDENTS WITH POTENTIAL ELIGIBILITY FOR TITLE IV FUNDS, IF THE SCHOOL EXPANDS ITS INITIAL CURRICULAR OFFERINGS. ADDITIONALLY, IN THE SAME WAY THAT SOME BUSINESSES ARE MEMBERS OF THE JAYCEES, THE LIONS AND THE ROTARY, THE INHERENT GROWTH AND DEVELOPMENT PROVIDED BY SELF-EVALUATION AND OUTSIDE PEER REVIEW IS A TOOL FOR MANAGEMENT, AND A OUTWARD SYMBOL OF QUALITY WHICH SOME SCHOOLS DETERMINE TO BE IN THEIR BEST INTERESTS. THERE ARE SCHOOLS WHICH SEEK ACCREDITATION WITH NO INTENT TO GAIN ELIGIBILITY FOR TITLE IV DISBURSEMENT.

10. BASED ON YOUR EXPERIENCE, HOW MANY "BAD" ACCREDITED SCHOOLS ARE THERE? ARE THERE SIMPLY THE PROVERBIAL FEW BAD APPLES THAT PROPRIETARY SCHOOL INDUSTRY INTERESTS ASSERT, OR ARE THERE MORE?

THIS IS A VERY SUBJECTIVE QUESTION, AND MY ANSWER IS NECESSARILY BASED ON MY DEFINITION OF "BAD". I BELIEVE THAT THERE IS A BELL CURVE OF SCHOOLS WITH THE MAJORITY DOING THE MAJORITY OF THINGS CORRECTLY, IN SERVING THE CONSUMER. I BELIEVE THAT THERE ARE SOME EXCELLENT SCHOOLS WHICH SHOULD BE TOUTED AS MODELS OF EXCELLENCE, AND I BELIEVE ABOUT THE SAME PROPORTION OF SCHOOLS ARE CORRUPT, WITH THE PRIMARY INTENT TO SCAM AND TO MAKE MONEY AT THE TAXPAYER AND STUDENT'S EXPENSE. I BELIEVE THAT THE MOST TELLING DESCRIPTION IS THAT THE SCHOOLS WHICH ARE DESCRIBED AS "BAD" HAVE BECOME BUSINESSES RATHER THAN EDUCATORS. IRONICALLY, THERE ARE MANY BAD BUSINESSES THAT SUCCEED, AND THEREFORE SERVE AS REVERSE MODELS FOR SOME OF THESE "BAD" SCHOOL OWNERS.

11. SINCE THEY ARE NOT GOVERNMENT AGENCIES, ACCREDITING AGENCIES ARE NOT SUBJECT TO FEDERAL CONFLICT -OF-INTEREST LIMITATIONS. IN YOUR EXPERIENCES, HAVE YOU SEEN INSTANCES WHICH SUGGESTED CONFLICT-OF-INTEREST PROBLEMS IN THE ACCREDITATION PROCESS?

YES. I HAVE DESCRIBED THIS IN DETAIL IN MY TESTIMONY. AS I STATED THERE, I BELIEVE THERE IS A NEED TO PROVIDE A PUBLIC PROTECTION WHICH DESCRIBES FOR THE CONSUMER WHAT TO DO WHEN CONFLICT OF INTEREST

(REQUESTING BRIBES ETC) ISSUES APPEAR TO BE OCCURING.

12. WE'VER HEARD THAT SITE EXAMINATIONS BY ACCREDITING AGENCIES ARE OFTEN INEFFECTIVE IN CATCHING BAD SCHOOLS. DO YOU AGREE? IF SO, WHY?

AS YOU'VE READ IN MY TESTIMONY, AND AS I ANSWERED IN QUESTION NUMBER 7, I BELIEVE THAT THERE ARE SEVERAL DIFFERENT ISSUES IN THIS PROBLEM. YES, I DO AGREE THAT SOME SITE EXAMINATIONS CAN BE INEFFECTIVE IN CATCHING BAD SCHOOLS. WITHOUT REPEATING EVERYTHING ALREADY STATED, I BELIEVE THAT THE ISSUE REVOLVES AROUND THE PREMISE OF ACCREDITATION WHICH STATES THAT A SCHOOL VOLUNTEERS TO GO THROUGH THE REVIEW PROCESS STATING THAT THROUGH SELF-EVALUATION IT BELIEVES THAT IT COMPLIES WITH THE ACCREDITATION STANDARDS. IF A SCHOOL DELIBERATELY WANTS TO LIE AND CHEAT, THE ACCREDITATION TEAM MEMBERS ARE NOT APPROPRIATELY TRAINED BY THE F.B.I. TO SEARCH FOR DISHONESTY. THE NORMAL PROCESS IS DESIGNED TO BE PEER REVIEW TO VERIFY WHAT A SCHOOL SAYS IT IS DOING, CAN BE VALIDATED. DISHONEST INDIVIDUALS MAY GO TO GREAT LENGTHS TO CHEAT.

13. IN YOUR EXPERIENCE, HOW DO ACCREDITING AGENCIES VIEW THEIR FUNCTION? DO THEY CONSIDER THEMSELVES RESPONSIBLE FOR SAFEGUARDING AGAINST FRAUD OR ABUSE IN STUDENT LOAN PROGRAMS? OR DO THEY VIEW THEMSELVES MORE AS AN ADVOCATE FOR THEIR MEMBER SCHOOLS?

I BELIEVE THAT ACCREDITING AGENCIES DO NOT SEE THESE ITEMS AS BEING MUTUALLY EXCLUSIVE. I BELIEVE THAT MOST ACCREDITING AGENCIES SEE THEIR FUNCTION TO BE TO HELP IMPROVE THE QUALITY OF EDUCATION, AND TO SERVE AS STUDENT ADVOCATES, IN ASSURING THAT THE COMPETENCE AND QUALITY OF EDUCATIONAL TRAINING IS CONSISTENT AND PREDICTABLE. SPECIFICALLY, THE SAFEGUARDING AGAINST FRAUD AND ABUSE HAS NEVER BEEN CLEARLY DEFINED. AS I HAVE STATED EARLIER, I BELIEVE THE LACK OF DEFINITION AND CRITERIA FOR WHAT THIS ENTAILS IS THE CRUX OF MANY OF THE CONFUSING AND FRUSTRATING CONCERNS WHICH EXIST TODAY. THE DEPARTMENT OF EDUCATION HAS SEEN THAT THE ACCREDITING AGENCIES FUNCTION IS TO POLICE THE TITLE IV DISTRIBUTION, WHILE THE ACCREDITING AGENCIES SEE THE FUNCTION TO NURTURE AND MONITOR TO INSURE THAT FINANCIAL STABILITY IS MAINTAINED. THESE DIFFERING DEFINITIONS MEAN THAT DOE AND ACCREDITING AGENCIES ARE NOT CONGRUENT IN DEFINING FRAUD AND ABUSE. AN ACCREDITING AGENCY, FOR EXAMPLE, CAN VERIFY THAT

FINANCIAL PROCEDURES ARE CONSISTENT, AND MEET THE ACCREDITING STANDARDS, AND NOT PERFORM ANY OR ALL OF THE DETAIL OF A FEDERAL PROGRAM REVIEW AUDIT, WHICH MAY CHECK ALL STUDENT FINANCIAL AID FILES TO VERIFY MINUTE, DETAILED INTERNAL CONSISTENCY OF STUDENT FILES. FOR EXAMPLE, A PROGRAM AUDIT MAY TAKE 4 DAYS, AND AN ENTIRE ACCREDITATION VISIT, MAY BE COMPLETED IN 2 DAYS.

IN RESPONSE TO THE SECOND PART OF THE QUESTION,YES, IN ADDITION, THE ACCREDITING AGENCIES REPRESENT THE NEEDS AND CONCERNS OF THEIR MEMBERS, AND CONSEQUENTLY, THEIR MEMBERS' STUDENTS.

14. IN YOUR EXPERIENCE, IS IT COMMON FOR ACCREDITING AGENCY DIRECTORS OR BOARD MEMBERS ALSO TO BE PROPRIETARY SCHOOLS OWNERS? DOES THAT CREATE A POTENTIAL CONFLICT OF INTEREST? HAVE ACCREDITING AGENCIES ADOPTED ANY EHTICAL STANDARDS TO PREVENT POTENTIAL CONFLICTS IN THOSE SITUATIONS?

YES, IT IS COMMON FOR BOARD MEMBERS TO BE PROPRIETARY SCHOOL OWNERS, OR REPRESENTATIVES OF PROPRIETARY SCHOOLS. IN FACT, THE ACCET BOARD OF TRUSTEES MEMBERS MUST HAVE SUCH A RELATIONSHIP. THE ACCREDITING AGENCY BOARD OF TRUSTEES REPRESENTS PEER REVIEW. THE ACCREDITING COMMISSION IS COMPOSED OF 4 PUBLIC MEMBERS, NOT ASSOCIATED WITH ANY ACCET ACCREDITED SCHOOL, AND 5 MEMBER REPRESENTATIVES ALL OF WHOM ARE APPROVED BY THE BOARD OF TRUSTEES. I BELIEVE THAT THE PREMISE OF ACCREDITATION SHOULD BE RESTATED IN ORDER TO AVOID THE MISPERCEPTION INHERENT IN THIS QUESTION OF CONFLICT OF INTEREST. THE ACCREDITATION PROCESS IS A VOLUNTARY PROCESS BASED PRIMARILY ON SELF-EVALUATION, WITH THE OBJECTIVE CONFIRMATION OF SELF-FINDINGS, BY AN OUTSIDE VISITING TEAM, AND FINAL REVIEW BY THE COMMISSION. IT SHOULD BE NOTED, THAT THE ENTIRE PREMISE OF THE BOARD, AND THE COMMISSION IS HONORABLE, SELF-REGULATION. (THE COMMISSION, HAS A STANDING PROCEDURE THAT IF A SCHOOL OWNER IS IN COMPETITION WITH A SCHOOL TO BE REVIEWED, OR IS IN A PERCEIVED COMPETITIVE ROLE, OR WAS ON THE VISITING TEAM, THAT COMMISSIONER DOES NOT PARTICIPATE IN THE DECISION MAKING PROCESS.)

YES, IT IS POSSIBLE TO HAVE A POTENTIAL CONFLICT OF INTEREST. IN THAT SENSE THE ENTIRE ACCREDITATION PROCESS, INCLUDING AGENCIES BEING SUPPORTED BY SUSTAINING FEES REPRESENT THIS SAME POTENTIAL.

15. TO YOUR KNOWLEDGE, WAS LARRY DODDS A MEMBER OF THE ADVISORY BOARD OF AN ACCET-ACCREDITED SCHOOL IN TEXAS AT THE TIME WHEN HE WAS PRESIDENT OF ACCET? IF SO, WAS THIS A VIOLATION OF ACCET OR INDUSTRY-WIDE POLICIES AND PROCEDURES? WAS ANY ACTION TAKEN AGAINST DR. DODDS WHEN THIS MATTER SURFACED?

YES, I BELIEVE THAT LARRY DODDS WAS A MEMBER OF THE ADVISORY BOARD OF AN ACCET ACCREDITED SCHOOL IN TEXAS AT THE TIME WHEN HE WAS PRESIDENT OF ACCET. THIS WAS NOT A VIOLATION OF ANY SPECIFIC ACCET OR INDUSTRY-WIDE POLICIES AND PROCEDURES, ALTHOUGH IT COULD BE PERCEIVED AS BEING A CONFLICT OF INTEREST. WHEN MEMBERS OF THE BOARD OF TRUSTEES WERE MADE AWARE OF THIS ACTIVITY HE WAS REQUESTED TO RESIGN FROM THIS BOARD.

16. ARE YOU AWARE OF INSTANCES WHERE LARRY DODDS, PRESIDENT OF ACCET, FAILED TO IMPLEMENT DECISIONS REACHED BY THE ACCREDITING COMMISSION AND SUBMITTED SITE EXAMINATION REPORTS TO THE COMMISSION THAT DID NOT FULLY REFLECT EVENTS THAT HAD TAKEN PLACE IN THEIR PREPARATION? IF SO, DO YOU KNOW WHY DODDS WOULD TAKE SUCH ACTIONS?

YES. I DO NOT KNOW WHY SUCH ACTIONS WOULD TAKE PLACE. IN TWO INSTANCES I RECALL THAT THE RESPONSE TO HOW THIS HAPPENED WAS THAT IT WAS A CLERICAL ERROR, IN TYPING AN INCORRECT TEAM ROSTER, AND IN MIS-READING THE ACTION OF THE ACCREDITING COMMISSION.

17. I UNDERSTAND THAT YOU WERE A TEAM MEMBER ON THE SITE VISIT TO THE CULINARY SCHOOL OF WASHINGTON. DURING THAT REVIEW, DID IT COME TO YOUR ATTENTION THAT THE SCHOOL WAS OR HAD BEEN ACCREDITED BY NATTS? IF YOU KNEW THAT NATTS WAS DISCONTINUING THE SCHOOL'S ACCREDITATION, DID YOU BECOME SUSPICIOUS OF PROBLEMS AT THE SCHOOL? WHAT DID YOU DO WITH THIS INFORMATION?

YES, I WAS ON THE REVIEW IN 1985 TO THE CULINARY SCHOOL. TO THE BEST OF MY RECOLLECTION, THE ONLY KNOWLEDGE THAT THE TEAM HAD WAS THAT THE SCHOOL WAS SEEKING DUAL ACCREDITATION, BECAUSE IT PLANNED ON OFFERING SHORT TERM PROGRAMS AT SOME FUTURE DATE, AND THAT SUCH PROGRAMS WOULD NOT FIT WITHIN THE SCOPE OF NATTS. I DID NOT KNOW THAT THE SCHOOL HAD HAD A NEGATIVE REVIEW WITH NATTS OR ANY OTHER AGENCY. THAT INFORMATION WAS NOT AVAILABLE TO THE TEAM, EITHER FROM THE SCHOOL OR THE OTHER AGENCIES.

IN RESPONSE TO THE IMPLIED STATEMENT BY STAFF THAT THE

VISIT WAS NOT A QUALITY ONE, I WOULD LIKE TO SUGGEST THE POSSIBLITY THAT IF THE SCHOOL KNEW PARTICULAR AREAS WERE WEAK, AS CITED BY OTHER VISITORS, AND THE OFFICIAL FACTUAL REVIEW RESULT WAS NOT YET COMPLETED, THE SCHOOL COULD HAVE SIMPLY CONCENTRATED ON IMPROVING THOSE PARTICULAR AREAS (PERHAPS MASKING), AND NOT BE OFFICIALLY OBLIGATED TO SHARE THE TENTATIVE RESULTS OF OTHER VISITS WITH THE VISITING TEAM OF ACCET.

IN ADDITION, SOME OF THE SPECIFIC FINDINGS, MIGHT NOT HAVE BEEN STANDARDS OF ACCET, YET MAY HAVE BEEN CONCERNS OF ANOTHER AGENCIES. FOR EXAMPLE, NATTS HAS A REQUIREMENT FOR A LIBRARY. ACCET'S REQUIREMENT IS FOR EVIDENCE OF RELATIONSHIPS WITHIN THE FIELD, TO VERIFY THAT THE PROGRAM DOESN'T OPERATE IN A VACUUM. SO THEREFORE, IF THE NATTS REPORT CITED A LACK OF LIBRARY FACILITIES, THERE WOULD NOT NECESSARILY BE SUCH FINDING BY THE ACCET TEAM.

I DID NOT KNOW THAT NATTS WAS DISCONTINUING THE SCHOOL'S ACCREDITATION. IN FACT, TO THE BEST OF MY RECOLLECTION, I NEVER KNEW THAT THE NATTS ACCREDITATION WAS REMOVED UNDER LESS THAN DESIRABLE CIRCUMSTANCES. WHAT I BELIEVE IS EVIDENT HERE IS A LACK OF SYSTEM, AND A LACK OF RAPPORT AMONG AGENCIES TO SHARE THIS INFORMATION. IN FACT, IT IS POSSIBLE, THAT ONE AGENCY WITHDRAWING ACCREDITATION, MIGHT BELIEVE THAT KEEPING THIS INFORMATION PRIVILEGED IS A WAY OF PROVING ITS SUPERIORITY, TO MAKE THAT DECISION, AND SEE HOW LONG IT MAY TAKE ANOTHER AGENCY TO FIND OUT THE SAME INFORMATION. I BELIEVE THAT THIS PROCEDURE HAS IMPROVED SINCE THIS TIME IN 1985. SPECIFIC FORMS TO SHARE INFORMATION ARE CIRCULATED AMONG ACCREDITING AGENCIES WHEN SCHOOLS ARE APPLICANTS. IN ADDITION, I KNOW THAT THE ACCET APPLICATION ASKS A SERIES OF QUESTIONS ABOUT ANY SITE REVIEWS, PROGRAM REVIEWS OR POTENTIAL NEGATIVE FINDINGS BY STATE, FEDERAL OR OTHER AGENCIES, SO THAT THE ANSWERS OBLIGATE THE SCHOOL TO SHARE THIS INFORMATION.

18. WERE YOU AWARE OF A PERSONAL RELATIONSHIP BETWEEN THE ACCET PRESIDENT, LARRY DODDS, AND THE OWNER OF THE CULINARY SCHOOL, BARKEV KIBARIAN? DID LARRY DODDS HAVE A DAUGHTER NAMED TAMMY WHO WORKED FOR THE KIBARIANS AT THE SCHOOL?

NO, I WAS NOT AWARE OF A PERSONAL RELATIONSHIP BETWEEN LARRY DODDS AND BARKEV KIBARIAN. LARRY DODDS HAS A DAUGHTER NAMED TAMMY WHO ATTENDS COLLEGE IN WASHINGTON. I WAS NOT AWARE THAT SHE WORKED FOR THE KIBARIANS.

19. WERE YOU AWARE THAT, ONCE ACCET HAD ACCREDITED THE CULINARY SCHOOL, THE OWNER SUGGESTED TO DODDS THAT THE SCHOOL RAISE A ONE MILLION DOLLAR ENDOWMENT FOR ACCET? DOES THIS PRESENT AN APPEARANCE OF IMPROPRIETY? IN YOUR EXPERIENCE AS A VICE-PRESIDENT OF ACCET, WAS THIS A NORMAL ARRANGEMENT BETWEEN A SCHOOL AND THE AGENCY?

NO, I WAS NOT AWARE OF SUCH A PROPOSAL. IN THE COURSE OF THIS SENATE REVIEW I HEARD OF THIS ARRANGEMENT, AND SAW A LETTER PRESENTING THIS PROPOSAL. I UNDERSTAND THAT THIS COULD BE PERCEIVED AS AN IMPROPRIETY. I ALSO UNDERSTAND THAT THIS COULD BE A LEGITIMATE RESPONSE TO A NEED VOICED BY ACCET AT THE ANNUAL CONVENTION TO CONDUCT FUNDS FOR SAFE-GUARDING. NO, THIS WAS NOT A NORMAL ARRANGEMENT BETWEEN A SCHOOL AND ACCET. HOWEVER, THERE WERE OTHER EXAMPLES OF SCHOOLS DONATING OFFICE EQUIPMENT AND SUPPLIES. IN ADDITION, SCHOOLS WOULD SPONSOR AN EVENT AT CONFERENCES AND WORKSHOPS. IN ITSELF, I DO NOT BELIEVE THAT THIS IS AN IMPROPRIETY. PERHAPS, A SOLUTION WOULD BE TO FORMALLY HAVE ANY DONATOR SIGN A STATEMENT THAT NO POTENTIAL OBLIGATION BY ACCET IS IMPLIED OR INFERRED.

20. ARE YOU FAMILIAR WITH THE NAME JOAN DUVAL? IS THIS A FORMER EMPLOYEE OF THE DEPARTMENT OF EDUCATION? ARE YOU AWARE OF DR. DODDS ACTING ON BEHALF OF THE CULINARY SCHOOL REGARDING DEPARMENT OF EDUCATION INQUIRIES AND CRITICISM OF THE SCHOOL?

I RECOGNIZE THE NAME JOAN DUVAL, AS BEING THAT OF AN EMPLOYEE OF THE DEPARTMENT OF EDUCATION. I AM NOT AWARE, AND I DO NOT REMEMBER ANY SPECIFIC INTERACTIONS BETWEEN JOAN DUVAL AND DR. DODDS.

TESTIMONY BEFORE THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Presented by:
Jan V. Friedheim
Chairman of the Board
Executive Secretarial School
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Thank you for inviting me to appear before the Subcommittee that is examining the U.S. Department of Education's student aid program.

BACKGROUND

I represent a private, for-profit, tax paying, postsecondary secretarial school that I founded in 1960. Our student body is primarily female, and we train approximately 600 students a year for office-support positions in Texas. The programs are 12 to 14 months in length and range from Executive Secretarial, Legal Secretarial to Paralegal.

The institution was first accredited in 1968 by the Association of Independent Colleges and Schools (AICS). In 1976 we also became the first proprietary school to be accredited by the Southern Association of Colleges and Schools (SACS), Commission on Occupational Education Institutions (COEI).

The students attending our institution are dependent on grants and loans as are all students today in postsecondary education. The institution disburses campus-based Perkins Loans and in this program has a 5 percent default rate. The Stafford and SLS default rate according to the Texas Guarantee Loan Agency is 13 percent with over $5,000,000 currently in repayment. The federal cohort default rate, however, is 20 percent, which is up from 11 percent last year.

ACCREDITATION KNOWLEDGE

From 1974 through 1979, I served as a member of the AICS Accrediting Commission, acting as Chairman in 1978. From 1980 through 1983, I served that organization as Chairman-Elect, Chairman, and Past Chairman of the Board of Directors. These positions entitled me to firsthand knowledge of the accrediting activities from a policy standpoint. In addition, from 1981 through 1985, I served as a member of the SACS Board of Trustees and, as such, participated as an observer of the COEI Accrediting Commission of SACS. From 1974 to the present, I have served as an active team member and team leader for evaluation visits for both AICS and SACS. During this period I presented numerous workshops on how to conduct evaluation visits, write reports, and administer standards of both accrediting bodies.

During the 30 years that I have owned a school, I have observed the development of state regulations and licensing in Texas. I have also served the state as the Vice Chairman of our Vocational/Technical Advisory Committee.

From 1981 through 1983, I served as a member of the U.S. Department of Education's National Advisory Committee on Accreditation and Institutional Eligibility Committee, being appointed by both President Carter and Reagan.

The views I offer to your Committee are based on an appreciation for the interests of students, a concern for quality education as an owner of an institution, a series of observations from working on evaluation visits for more than one accrediting commission, participating in the decision-making process as an elected/and appointed accreditation commissioner and my service on the Secretary's National Advisory Committee.

ACCREDITING COMMISSIONS

Strengths: The real strength in the decision-making process by both AICS and COEI Accrediting Commissions has come from the input of insiders--not the outsiders or public members. I realize that many people are concerned that insiders are part of some "good ole boys network," but I feel strongly that this is a serious misconception. The so-called "good ole boys" do have a vested interest in the outcomes of accrediting decisions. This vested interest means that they recognize "bad" schools and realize how "bad" schools hurt everyone. Insiders react to these situations with a toughness that is vital in the process. On the other hand, the outsiders I have observed are far more liberal and forgiving. They frequently want to give the school another chance, thus prolonging abuses. The real value of outsiders serving on accrediting commissions is their fresh perspective on policy issues, not their ability to evaluate an institution. In fact, I have always been extremely concerned when a public member reviewed a school file because no matter how much training or how dedicated that individual might be, he/she simply has no base from which to draw conclusions. It is for that reason that AICS insists that more than one individual review a file before decisions are made.

In the case of COEI, more than one person will review a file; however, both may be from outside the expertise needed to effectively evaluate the data. I feel to maintain the true integrity of the accrediting process both insiders and outsiders are needed for balance.

Weakness: Evaluation teams vary widely in their ability to report effectively during a site visit. The initial accrediting visit by COEI, which was the first visit of a proprietary school by that Commission, was of grave concern to me. At that time they had neither the standards nor the trained team members to properly evaluate my school. The gentleman assigned to determine financial stability, a section that had required little or no expertise since COEI had been only evaluating public institutions, was puzzled by our operating statements and balance sheet. Finally, he said to me, "Well, I've never seen one of these except in a textbook. Can you tell me is this a good statement?" Later at the annual meeting of SACS when our accreditation was affirmed, another institution (proprietary) that had also been accredited at that meeting and I went to the Executive Director of SACS and expressed our concern about the lack of expertise and standards for proprietary schools. We further explained that COEI had to address these issues quickly or be in a very embarrassing position of accepting institutions that did not meet minimum standards. We offered to serve in any way possible. Our offer was not accepted. COEI did begin to add a proprietary team member to each visitation team immediately. However, it was years before COEI recognized there were problems in the standards.

The key to good evaluation visits is training. Every accrediting commission should have training standards for team leaders and for team members. Workshops and, perhaps, certification should be required for team leaders. Updating the team leaders in changing policies is essential. Equally important in the evaluation visit to provide consistency is a qualified staff person. AICS has a staff person on each visit to insure uniformity in applying the standards. COEI rarely has a staff person, leaving the responsibility of consistency to the team leader.

Another weakness in the process is that today accrediting commissions are no longer focused on their ultimate mission: To insure that institutions meet minimum standards of quality. I have seen the focus change dramatically in the last 15 years from quality education and outcomes, to enforcement of state and federal regulations. Frankly, this trend serves neither the state nor the federal regulators because accrediting commissions cannot revoke federal funds nor revoke licenses to operate. Instead by enforcing accrediting standards and procedures, they pursue a long process designed to improve quality, not enforce regulations. Due process entails a lengthy period of show cause and response which is not designed for sudden eliminations of accredited status. This is often viewed as an unwillingness of the commission to act responsibly to protect federal dollars but this is not the case nor is it the mission of accreditation. Accrediting Commissions either need to redefine their role and rewrite their standards and procedures or return to their original mission. They simply do not possess the tools necessary to act quickly in emergency situations.

STATE LICENSING

Weakness: Having served as an evaluator or team leader in many different states, I am amazed and frustrated by the lack of uniformity in state regulations. Some states are excessively restrictive and others are inordinately lax. This year I was on a team visit in Georgia and the state licensing person met with the team. She told us that it was a "fine" school, deserved to be accredited, and had no complaints. Upon further discussion with her, the team learned that since the school was very small and provided only JTPA training, the state licensing people actually never visited it and really knew almost nothing about the operation. On the other hand, having conducted numerous visits in New York, I am impressed with the thoroughness and cooperation of their licensing department with accrediting commissions. They do not make recommendations but do supply needed facts for the teams to function effectively. This type of activity where the state licensing department has current knowledge of the school and shares the facts with the team makes the process work.

NATIONAL ADVISORY COMMITTEE

Serving on the Advisory Committee was one of the most interesting and frustrating assignments I have ever had. After meeting the members of the Advisory Committee, my initial and continued reaction to them was "Why were they appointed?" The Committee was composed of four members who understood and were concerned about accreditation issues. Fortunately, we had a strong Chairman, Father Healey, at the time President of Georgetown University, plus the four knowledgeable members. The other members were not knowledgeable nor were they particularly interested. One member asked at the end of each session "Can someone tell me again what it is we are supposed to be doing here?" She was reappointed. Since this Committee serves as a valuable balance for the Department of Education, it is critical that the Committee be composed of individuals who are dedicated and committed to accreditation and what it represents. It should not be a presidential political payoff appointment. My recommendation is that the Secretary of Education assume the role of appointing these members. Further that criteria be developed to qualify for service. The next step should be to increase the training program. I believe that prior to serving each individual should observe at least one accrediting commission during its deliberations. In addition, the training program should not be held in conjunction with the regular meeting.

My frustrations were increased when the Council on Non-Collegiate Continuing Education (later to become the Accrediting Council for Continuing Education Training, ACCET) presented its petition to the Committee for acceptance on the Secretary's approved list. The basis for their argument to be accepted was that continuing education courses needed the recognition of the Secretary's Approved List so that corporations would reimburse participants for courses taken. They assured the Committee that no Title IV funds would be involved. The staff members of the Department of Education and I knew that NCNE had already accredited a word processing institute in New Jersey, and we felt strongly that this was only the beginning of their accrediting institutions that would use Title IV funds. Through questioning I was able to raise doubts in the minds of the Committee members of the real purpose of NCNE's petition. The Committee finally agreed to defer action and requested more information. The petition was reconsidered at the next meeting; however, I had served my term and was no longer a member. The petition was accepted, and they received recognition by the Secretary.

INSTITUTIONS AND STUDENTS

In a very real sense institutions actually "own" the default rates, and yet we have limited ability to control and reduce default rates. Institutions need the right to refuse access to students who admit they are getting the loan to "rip off" the system. For instance, we had a student who told the financial aid officer that she had no intention of staying in school after her SLS check arrived. The financial aid officer refused to give her the loan application. The student called the state guarantee agency and was assured that she was entitled to that loan. She reported this to us; we called the agency; and they again reported that we must allow her access. That student received her SLS check and was never seen again by the school. This does happen in the real world, and institutions need the ability to refuse loans when appropriate. This right should belong to the school. After all, it is "our" default rate by which we are judged; we need some controls.

Students also have some rights that are currently not protected. Some parents take out PLUS loans for educational costs and keep the funds, leaving the student with no means for paying for his/her education. I am aware of situation in which a student and her parents applied for a PLUS loan. The loan was granted, the check was mailed to the student's parents, the check was never given to the school which forced the school to dismiss the student for non-payment of tuition. The student couldn't complete the course and therefore couldn't qualify for a job. The loan wasn't repaid by the parents, and the school was assessed the default. PLUS checks should be made co-payable to the institution and thus avoid the heartbreaking incidents of parental abuse of the PLUS system.

For the student's sake, I would like the committee to consider having the lenders send the payment books for student loans to the school 30 days before scheduled graduation. Then at the exit interview, the school could insure that the student received the payment books along with a card showing the 800 number to call if the student encountered any problems. Too many students have difficulty receiving their payment books due to moving after graduation and sometimes failure of the lender to get in touch with the student on a timely manner. Those loans then go into default before the student has an opportunity to make a payment. Providing the payment book during the exit interview could prevent some of those problems.

It would also be beneficial to the students if during the course of their schooling a minimum payment were required so that the loan repayment could become a habit. This repayment amount could be as little as $10 monthly. If this idea were adopted, the repayment book could become part of the initial package. All students would then be aware of the difference between a grant and a loan.

Since federal dollars are being utilized to fund postsecondary education, it is reasonable that the federal government demand that all institutions agree to articulation agreements. Unfortunately, higher education must be forced to recognize the need for transfer of credit policies. The students must stop paying twice for education because institutions refuse to accept each other's credits. This is not fair to the students nor to the federal government who stands behind these loans and provides the grants.

DEPARTMENT OF EDUCATION

Encouraging progress has been made in reducing defaults due disbursements and requiring multiple disbursements. They should be commended for taking action.

My view from serving on the National Advisory Committee is that the Department is forced by the lack of proper expertise on the National Advisory Committee to devote too much staff time and responsibility to the process of reviewing the accrediting bodies. Even though I have found the staff extremely competent and very concerned with good decisions and fair judgments, I think the responsibility should be a shared-decision. I feel the staff would welcome a more effective, better-trained National Advisory Committee to better share the heavy workload.

The development of quality education and effective utilization of federal resources requires a cooperative relationship between the federal government, state licensing agencies, and accreditation commissions. This process called the TRIAD needs to be clearly defined and understood to insure the appropriate assumptions of action. The federal government should not be expected to judge the quality of an institution's educational program nor should accrediting agencies be expected to monitor the use of federal financial aid. Until there is a clear understanding between and among the three entities, there will not only be confusion, but resources will continue to be wasted and students will continue to be the primary suffers of the abuse.

I firmly believe that the Triad can and should work. Currently, I do not believe it is working effectively. The states, the federal government, the accrediting agencies, institutions, lenders, and guarantee agencies seem engaged in a finger-pointing exercise that does not serve the system nor the student. I would call upon Congress to direct the Department of Education with assistance from state agencies and the accrediting bodies to present a position paper within the next year that defines the role and function of the Triad--the state, the federal government, and the accrediting agencies. Then and only then can the student financial aid programs be structured so that the responsibilities are clearly understood and the programs effectively administered. And, perhaps, then the finger pointing can end and serving the educational needs of our students can begin.

SUMMARY OF RECOMMENDATIONS

1. Maintain balance of public and insiders as members of accrediting bodies.
2. Insist all accrediting bodies have standards for training evaluators.
3. Have the Secretary of Education appoint the National Advisory Committee members.
4. Establish criteria for National Advisory Committee selection.
5. Increase the training for National Advisory Committee members.
6. Give institutions the right to deny access to SLS loans when intentions for abuse are evident.
7. Make PLUS checks co-payable to the institution.
8. Provide students with payment books at the exit interview.
9. Enable the students to begin making minimal payments from the beginning of the loan.
10. Demand that all institutions have an articulation agreement if their students receive federal fund for tuition.
11. Have Congress direct the Department of Education with assistance from state agencies and accrediting bodies to present a position paper defining the role and function of the state, the federal government, and accrediting agencies.

Mr. Chairman, this concludes my prepared statements, and I am willing to respond to any questions you or the committee may have.

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MAJORITY OFFICE

HEARING FOLLOW-UP QUESTIONS
JAN V. FRIEDHEIM

Q. Practices, characteristics, and ownership of proprietary schools seem to change rapidly. Do you think that accrediting agencies should review their proprietary schools on an annual basis in an attempt to monitor the changes?

A. Schools are now monitored on an annual basis by a reporting system that requires vital information. Accrediting agencies should more thoroughly review those reports for "red flag" items that should trigger a site visit. I would further recommend that newly accredited institutions receive a site visit by a small team after the first year. If no problems are evident, the institution would then go on the annual report monitoring system. If problems were evident, annual visits would be mandated. However, I do not believe accrediting agencies should visit every institution every year. That would greatly increase the cost of accreditation and be a waste for the majority of institutions.

Q. As the system is now, do you think there is sufficient control over the proprietary institution?

A. In many states, I think the state licensing control is weak to non-existent. In those states, there is no fast-acting system to resolve problems or identify problems. The states with effective licensing regulations controls have and reviewing systems in place. The main problem is lack of communication between or among the Department of Education, accrediting agencies, and or states, where strong licensing agencies exist.

Q. Is it your impression that more proprietary schools turn bad after they are accredited, rather than that bad schools make it through the review process undetected?

A. My view is that schools change in nature and size after accreditation, not necessarily "bad." My recommendation would be to require increased monitoring by all of the Triad after initial accreditation until the institution can prove it has sufficient administrative support systems to accommodate the changes, which will serve to present "bad" schools from developing.

Q. Do you think the Department of Education places more reliance on accrediting agencies than these agencies can effectively discharge with periodic visits?

A. I think the Department of Education has avoided its responsibilities in many cases by relying on accrediting agencies to do its work. There is a proper and necessary role for each element of the Triad. The duties and functions of the Department, the accrediting agencies, and the states need

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to be defined and agreed upon.

Q. Do accrediting agencies verify data that schools provide, or are these data automatically accepted as reliable?

A. In my experiences as an evaluator and as a school owner, I know that accrediting agencies demand reasonable documentation.

Q. In your experience, how would you rate the performance of the Department of Education regarding administration of the Title IV program?

A. I think the Department has not had sufficient staffing to properly monitor the program. The Department has been reacting to problems instead of being proactive until recently. Those of us who work with the problems could easily advise the Department where problems will develop, but there is a lack of communication between the users and the Department.

Q. Subcommittee staff has been told that dual accreditation is one way that schools protect themselves against having the Title IV money tap turned off. Why would a school seek institutional accreditation by two national agencies?

A. In the past, dual accreditation could protect the institution. However, the accrediting agencies are now communicating and if a negative action is taken by one, it must be reported to the other for action. It is necessary that all accrediting agencies agree to this. The only good reason for dual, national accreditation would when an institution determines that it would be better served by another agency. During the process of moving from one to another, the institution would have to have dual accreditation to protect the interests of the students.

Q. We've heard that site examinations by accrediting agencies are often ineffective in catching bad schools. Do you agree?

A. Site examinations are only as effective as the people on the team; therefore, it is vital that accrediting agencies have sufficient training programs to develop evaluators. It is also important that a staff person from the agency be on the team to insure that procedures are followed. Then should an institution have ineffective team members, the staff person could report and a follow-up visit be established. My experience has been that sometimes there are weak team members; but if the leader is strong, this handicap can be overcome.

Q. In your experience, how do accrediting agencies view their function? Do they consider themselves responsible for safeguarding against fraud or abuse in student loan programs? Or do they view themselves more as an advocate for their member schools?

A. Accrediting agencies view themselves as advocates for the students, which includes far more areas than student financial aid programs. Quality of education and consumer protection are both the focus of accrediting agencies.

Q. How often, in your experience, did the National Advisory Committee reject a petition for recognition by an accrediting agency.

A. In my experience, the National Advisory Committee did not reject any petitions; however, the NAC did defer action and request additional documentation in some cases.

Q. How often, in your experience, did the Secretary of Education decline to recognize an accrediting agency recommended by the National Advisory Committee?

A. To my knowledge, the Secretary never did decline to recognize an accrediting agency recommended by the NAC.

Q. When you first joined the National Advisory Committee, did the Department of Education take any action to train you and other new members on the Board?

A. Yes, and the short training period was adequate for those of us who had served as members of accrediting bodies. However, those individuals who had little or no knowledge of accreditation were disadvantaged. The training program was approximately two hours in length.

Q. During your tenure as a member of the AICS Board of Directors, did you observe that AICS or any other agency promoted accepting new schools for accreditation because the yearly dues mean more revenue for the agency?

A. No, I never observed this. On the contrary, I observed the Board recommending caution to the accrediting commission for fear that the wrong schools were being accredited. The Boards I have observed have been very protective about the value of accreditation and concerned about the image of the association.

Q. You encourage more cooperation between accrediting agencies and state licensing bodies. How can this be accomplished?

A. The accrediting agencies, the Department of Education, and the state licensing agencies could agree to communicate electronically on all validated complaints or negative reports on institutions. This would "red flag" an institution so that the other members of the Triad could be alert to the problems, whatever they might be. Then that member could take action if needed. This would eliminate the long time lapse in communication. Certain types of communication could be transmitted by computer technology to update each member of the Triad.

Submitted by,

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STAFF STATEMENT

U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

CONCERNING

THE CULINARY SCHOOL OF WASHINGTON

SEPTEMBER 13, 1990

I. INTRODUCTION

Mr. Chairman and Members of the Subcommittee, as you will recall from yesterday's testimony, one of the basic questions the Subcommittee investigation has attempted to answer is how do "bad" schools get into and continue to operate in the Title IV program. In order to answer that question, the staff today is prepared to present a case study of just how such a school -- the Culinary School of Washington obtained and maintained eligibility for eight years.

Today the staff intends not only to describe the problems that beset Culinary School but also to go behind these facts to discern the causes for the breakdown of the system that allowed it to occur in the first place.

To assist in this analysis the staff has prepared a chronologies of significant events for each of the various entities that were responsible for ensuring that Culinary provided quality education to its students, most of whom were receiving federal assistance.

The process of choosing the Culinary School as our case study was not an easy task in light of the large and growing universe of "bad" proprietary schools. In doing so, the staff relied upon the recommendations of local, state and federal regulatory and licensing officials including the Department of Education's Office of Inspector General. We also reviewed the files of hundreds of allegedly "bad" schools and thousands of pages of investigative and regulatory files. In finally deciding upon the Culinary School as our case study, the staff wanted to exemplify as many of the particular problem areas that have been the earlier identified by the Subcommittee.

The Culinary School "unfortunately" exemplifies most if not all of the current shortcomings of the "triad". It raises questions about the effectiveness of each player in the system -- state licensing, accreditation and ultimately the Department of Education. It also raise a number of issues concerning the vigor in which the Department's own Inspector General's office responded to the serious allegations of wrongdoing on behalf of the staff and owners of the Culinary School.

II. BACKGROUND

The Culinary School of Washington (CSW), headquartered in Washington, D.C. was a proprietary school offering postsecondary education in the culinary arts. First incorporated on May 8, 1978 by Barkev and Mary Ann Kibarian, it operated until June 30, 1990 when its proprietary school license for the District of Columbia expired.

While licensed, it operated numerous branches in both Virginia and the District of Columbia. These branches or auxiliary classrooms were where the actual teaching at Culinary took place and consisted of leased kitchen space at a number of restaurants, bars and hotels throughout these jurisdictions.

Records from the Department of Education, indicate that Culinary School was approved for participation on July 19, 1982 and began participation in the Federal financial aid program on August 27, 1982. By January 31, 1983, the Culinary School had not processed any Pell Grants and only one Guaranteed Student Loan (GSL) application, totaling approximately $5,000. However, by calender year 1989, the student loan volume had significantly increased. In that year the school's cumulative guaranteed loan volume had reached $18.8 million with $6.6 million in loans for 1989 alone. In addition, the school drew down $770,000 from the Department of Education during calender year 1989 for Pell grants and Supplemental Education Opportunity grants.

From June 27, 1981 to April 17, 1986, the Culinary School was also eligible to accept students utilizing certain veterans benefits. Culinary voluntarily withdrew from the Veterans Administration program pursuant to a Settlement Agreement that resolved allegations concerning overpayment of benefits.

During its existence, the Culinary School was accredited by two organizations recognized by the Secretary of Education. From April 8, 1982 to March 4, 1987, the school was accredited by the National Association of Trade and Technical Schools (NATTS). As we intend to develop in more detail later in the staff statement, the school's withdrawal of accreditation was directly precipitated by a December 4, 1985 NATTS investigation of the school for serious questions of conduct and integrity. Nevertheless, the Accrediting Council for Continuing Education and Training (ACCET) granted Culinary accreditation from July 15,1985 to June, 30, 1990.

The ultimate demise of the school arose from a number of complaints in 1989 concerning housing and training promises made by the school. These complaints were brought to the attention of the Education Licensure Commission (Commission) of the District of Columbia. Because of concerns raised about the school's operations, the Commission only granted a temporary license to the school when its license came up for renewal in the Fall of 1989. The license was only temporary until they had an opportunity to conduct a site review at the school. Attempts were made to schedule the site review, but various obstacles arose which prevented the review, including the school moving its main campus. Because the school moved its main campus without proper approval from the Commission and the Commission had concluded that the school had made misrepresentations to both it and its students, the Commission intended to recommend to its Board on January 11, 1990 that the school's license to operate not be renewed.

On February 27, 1990 the Culinary school signed an agreement with the D.C. Licensure Commission that provided that the school would voluntarily withdraw its application for renewal of its license to operate. The school was permitted to stay open only until June 30, 1990 and solely to "teach out" currently enrolled students.

Culinary also encountered problems with the Virginia State Licensing Authority. On January 2, 1990, the Authority notified the school that it intended to revoke the school's license to operate in Virginia. The Authority's proposed action was based on the finding that the school had improperly operated a school in Richmond without the Authority's approval. Prior to a scheduled hearing on the matter, the school and Virginia entered into an agreement whereby the school voluntarily withdrew its license.

III. PROBLEMS AT CULINARY

The staff review of the Culinary School revealed a history of serious and recurring problems that affected both the quality of education and administration of the federal student financial aid program.

This pattern of problems is echoed by the 1990 Department of Education Inspector General (IG) Inspection Report of May 21, 1990, which states:

> There were numerous misrepresentations made to students concerning housing, availability of supplies, transportation, training, and other services. The school's owner also demonstrated a careless disregard for laws and regulations concerning obtaining proper licenses for recruiters and licenses for CSW campuses. The inspection further revealed the school has been responsible for not making, understating, or making untimely refunds. This was found to be both a serious current and previously cited problem. In an apparent effort to delay and conceal this problem, checks were backdated or stop payments made and inaccurate documents were prepared.

> Further, school officials were responsible for improperly administering some "ability to benefit" tests by wrongfully providing answers to students....
>
> The harm to students and the Department of Education resulted not only from the school's and its owners' noncompliance with program requirements, but their failure to meet the expectations of the students recruited to attend the school.

The staff found that the harm to the students by Culinary's misrepresentations were particularly significant since most of the students were poor and recruited from out of state. Having traveled long distances, some at their own expense, upon arrival in Washington, D.C. they found out they had been misled but were unable to do anything about it because of their lack of money, etc. They essentially became a "captive" audience for Culinary.

Paul Fiscella, staff attorney for Legal Services of Northern Virginia, who represents some of the more than one hundred students evicted from student housing in Alexandria because Culinary failed to pay the rent in January, 1990 told the staff that :

> After enrolling in CSW, students discovered that the program was not what had been promised. The student housing was overcrowded with sometimes up to four persons (combining men, women and children) living in a none bedroom apartment. Ultimately, the vast majority of students were evicted...even though [CSW] had received payment for housing from the students.
>
> Finally, students were not prepared for meaningful employment in the culinary field. Instruction was hampered by abrupt changes in teaching locations, high turnover in instructors, and a lack of quality instruction and supplies. In fact, many students incurred about $8,000 in student loan debts only to toil without pay in a cafeteria at a water treatment facility. (Letter of Fiscella submitted for the Record)

Former French instructor Sharon Marburg, who has provided an affidavit for the record, described other problems at the school:

> Most outrageous were the facilities and primitive conditions under which I was supposed to teach and the students were supposed to learn. I had to meet my class in local taverns such as Bojangles and Abbey Road, where music was blasting, lighting was inadequate, and the smell of stale beer, smoke and

> vomit permeated the room. The class location kept changing but never for the better!
>
> * * *
>
> The students told me that the facilities were under-equipped and roach-infested. They also said that the food they worked with was often rancid, moldy, and adulterated.

In the case of the Culinary school, the staff found a continuous pattern of complaints concerning its quality of education from 1982 to the school's closing. The complaints combined with other factors including false or missing "ability to benefit tests" probably explained the extremely high withdrawal rate found at the Culinary School.

In 1986, the Department of Education, Inspector General found some classes where 40 students would begin the class and only six would finish. By 1988, the Inspector General was identifying classes with average withdrawal rates of 75%. Many students and faculty interviewed confirmed these figures. In her affidavit Sharon Marburg concluded that due to the poor quality of the students recruited it was absurd to think they had any "ability to benefit."

As explained by the Higher Education Assistance Foundation (HEAF) in their statement, these quality of education issues, combined with the school's failure to pay refunds almost from the start of their involvement with the Title IV program, produced an extremely high default rate at the Culinary School:

> To date, HEAF has paid out $2,448,204 in default claims for borrowers who attended CSW. This represents a net default expense to HEAF of nearly $500,000, with the taxpayer carrying the burden of the remainder...This level of default translates into a 46% mature proper default rate for the HEAF guaranteed portfolio.

Ironically, problems concerning this school, which could have raise questions about the owner's suitability to participate in the federal program predate their 1982 eligibility determination by the Department.

Our staff found that on November 4, 1980, the Washington, D.C. accounting firm of Wayne Kendrick & Company published a special audit report to the Southeastern University Board of Trustees for the fiscal years ending July 31, 1978 and July 31, 1979. This examination directly implicated Dr. Barkev Kibarian, the then-President of Southeastern University, in a scheme to misappropriate university funds, for the benefit of the Culinary School of Washington, whose president at that time was Mrs. Kibarian. It included University payments for culinary school

> Dr. and Mrs. Kibarian are the only remaining members of the 1983 administrative team....Many, many students complained about the sudden changes of staff officials at the CSW....It appears that the CSW has experienced a 100% turnover in faculty positions....
>
> Site changes and the lack of a permanent facility were problems...
>
> The library is inadequate
>
> The most essential publication to an educational institution is its catalog. The Culinary School is lacking this publication...
>
> The catalog proofs...indicate that housing is available at local universities....One member of the team called all local colleges...to validate this claim. Most officials in the housing offices had never hear of CSW...

To the Subcommittee staff, these findings should have raised serious concerns about the school's qualification for not only the Title IV program but also a proprietary school license. Yet, it appears that nothing happened as a result of it. The Commission, no longer having jurisdiction over the school, referred the matter to DCRA which did nothing. This apparently forced the Chairman of the D.C. Licensure Commission to forward a copy of the site visit to the Department of Education, imploring them to do something:

> The volume and nature of these complaints is unlike any institution licensed by the Commission, and has seriously concerned the Commissioner. At its meeting on March 5, 1987, the Commissioner...asked me to urge you to take whatever corrective actions that are in your power to protect the citizens of the District of Columbia.

The staff found no record of the Department acting against Culinary as a result of this correspondence. Shortly after the non-degree licensing function was transferred to the Education Licensure Commission in 1989, the Commission initiated a number of investigations of CSW. As explained in their statement which is submitted for the record, the Culinary school consumed almost all of the resources of the Commission in 1989. This fact supports the earlier finding of the Subcommittee staff that state licensing bodies are woefully under-funded and under-staffed to regulate the proprietary industry.

The Commission was forced on November 9, 1989 to seek an outside panel of experts to perform a site visit on Culinary and review the new allegations. As it turns out, this site visit never occurred, in part because of the eventual advertising, printing telephone answering services, textbook purchases, postage and rental of facilities. The total amount of these questionable expenditures equalled $104,000.

Newspaper articles in 1983 and 1985 described the substance of these allegations concerning the Kibarians. Thus they were publicly available to any of the accrediting or licensing bodies for use in determining the suitability of the school owners for participation in the operations of the Culinary School. The staff found no evidence that any of the regulatory or accrediting bodies ever considered these allegations in the course of reviewing the School's operations.

IV. ROLE OF THE TRIAD

A) LICENSING

Although actions by the licensing bodies in Virginia and the District of Columbia in 1990 appeared to have finally put a stop to the Culinary School, the staff found that the licensing function was generally ineffective.

Up to 1989, the licensing authority for proprietary schools in the District of Columbia was the Department of Consumer and Regulatory Affairs (DCRA). From early 1984 through 1989, that body received numerous complaints concerning false advertising, improper recruitment, financial misconduct and ineffective educational practices at Culinary. The staff found that most of these allegations were investigated and many were confirmed. Yet, it appears that nothing was ever done by the Department as a result of these investigations. As one D.C. regulator told the staff, "DCRA does good investigations. That's it, nothing ever happens."

On the other hand, the D.C. Education Licensure Commission appears to have been more aggressive in its regulatory function. For example, in 1983 Culinary sought a degree-granting license. At that time this was within the jurisdiction of the Commission and not DCRA. The Subcommittee staff noted that the Commission acted responsively to complaints as well as the need for a site visit of the school.

That site visit occurred in December, 1984, and provides a troubling portrait of the school. The site team found that the school to be administratively and educationally unsuitable. In part, it noted:

> The application...indicated the Culinary School operated under a seventeen-person Board of Directors. This clearly is not true. This board has never met and several members expressed surprise when apprised that they were listed....

bankruptcy of the school but also, in part, due to the apparent misconduct of the school officials. The staff learned that the Kibarians deceived the Commission by asking for a postponement of the visit in order to move the school's office. The Commission discovered that it this move was planned some time in advance by Culinary in order to evade the site visit.

This, in turn, highlights the problem that faced both the District and Virginia in overcoming the extensive procedural due process afforded propriety schools in licensing matters. In almost every case where an adverse action was pending, the hearings would be continued, sometimes up to 12 months in length, because of motions by the Culinary school.

B) ACCREDITATION

The Culinary School case highlights a series of problems with the accrediting process. The foremost deals with the uses of dual accreditation to avoid losing Title IV eligibility.

Culinary was first accredited by NATTS in 1982. It later obtained accreditation from ACCET in 1985. The staff found evidence that appears to indicate that Culinary obtained ACCET's accreditation in response to NATTS' decision to revoke the school's accreditation. As previously indicated, NATTS granted initial accreditation to the Culinary School on April 8, 1982. By May, 1984, they began to receive numerous complaints concerning the school. Due to their severity, the Executive Committee of the Commission directed a special site visit to be conducted.

Apparently after some delay that site visit took place. The overall reaction to the school was extremely negative. Although briefly noting four favorable attributes to the school, it then proceeded to describe 26 serious concerns and potential problems. These included:

- misleading promotional literature;
- use of unauthorized facilities;
- high staff turnover;
- files missing important documentation;
- an "inherently defective" attendance system;
- no evidence that refunds were made in a timely fashion.

Based upon these findings, the NATTS Accrediting Commission on January 10, 1985, ordered the school to provide a response including a new self-evaluation report (SEA) within 60 days. The files show that it wasn't until October, 1985, almost a year after the first site visit, that the Accrediting Commission considered the school's response and issued an order to deny its accreditation, commenting that "additional complaints were voiced by students which call into question the integrity of this institution. It would take an additional 13 months for NATTS to eventually remove the school's accreditation. After numerous appeals and other delays, the Culinary School voluntarily withdrew its accreditation on March 6, 1987, two years and three months after the initial site visit. The length of this process raises questions about the speed with which an accrediting body can respond to serious problems.

The staff discovered that almost from the start of this tortuous process, the school "hedged its bets" by obtaining accreditation from ACCET. On May 10, 1985, Dr. James Grey, Academic Consultant to Culinary contacted ACCET concerning accreditation. In ACCET's telephone log, the staff found notations that Culinary already had NATTS accreditation and is "looking for double accreditation." In response to the question "why is the organization seeking accreditation," is noted the response, "in case of other to change."

Thus, five months after the NATTS Accrediting Commission formally notifies the school of the seriousness of the problems revealed in the December visit, Culinary is looking for new accreditation. The apparent urgency of the school is indicated in a May 21, 1985 letter accompanying their $300 application check to ACCET which says:

> the school is anxious to begin the self-evaluation as soon as possible.

ACCET granted accreditation to Culinary, effective July 18, 1985 after a June 28th site visit directed by ACCET Vice President Debbie De Vries that gave the school a clean bill of health.

The contrast between ACCET's glowing site report and the negative site visit of NATTS in December 1984, affirmed by NATTS' Accrediting Commission action in October 1985 to revoke the school's accreditation, is somewhat perplexing. Further questions are raised when one considers that in December, 1984 the District of Columbia's site evaluation was equally disparaging of the quality of the school's educational and management programs. Added to this the Subcommittee staff found that the U.S. Department of Veterans' Affairs found a pattern of inadequacies in the school's operations throughout this same time frame and two months after the ACCET visit notified the school of the need to immediately institute corrective actions.

The Subcommittee staff concludes that clearly, there appears to be some problem with either the quality or scope of the ACCET site visit.

This fact pattern also raises a question concerning the adequacy of communications and cooperation between the accrediting bodies. Although ACCET was aware of NATTS accreditation, did ACCET know about NATTS' investigation and allegations? Nothing, except for the brief notation in the original May, 1985 phone logs would impute knowledge of the school's problems to ACCET. But, should they have known or made affirmative inquiries with NATTS to find out why the school was so anxious to get new accreditation? Apparently this question must have crossed the mind of one of the ACCET Commissioners who approved the accreditation of Culinary. The staff found the worksheet for one of the Commissioners reviewing the application for accreditation the handwritten notation "NATTS? Why or why not," under the section for issues and problems.

Also, did NATTS know about the ACCET accreditation in the course of its two year-long "de-accreditation" process? If so, should NATTS have alerted ACCET? From interviews with NATTS personnel, the staff did not get a clear indication that NATTS felt legally or professionally bound to warn ACCET, other accreditation agencies or even the Department of Education about the school's problems. It appears that the threat of potential litigation for revealing allegedly "confidential or proprietary" information surrounding accreditation may have influenced NATTS decision not to tell ACCET.

NATTS claimed in their interview that they weren't aware of the ACCET accreditation during the period of dual accreditation (1985 - 1987) and felt that the school should have told them. Nevertheless, such knowledge must surely be imputed to NATTS, since the staff found that Culinary's correspondence, and catalogues distinctly listed both NATTS and ACCET accreditation. Due to the amount of correspondence and requirements for the school to file annual reports and other materials with NATTS during the 1985 - 1987 period, we feel certain that some of this "dual accreditation" material must have been received by NATTS and put them on notice about ACCET.

The Culinary case also shows the pitfalls of unregulated branching. Culinary opened dozens of branches which were automatically accredited by ACCET as part of the school's main campus, thus avoiding a site visit by the accrediting agency. In addition, the files indicate that the main campus itself was also moved on four occasions and immediately accredited without a site visit by ACCET.

The Inspector General of the Department of Education, in his February 20, 1990, management improvement report, found that a major problem is caused by schools who use the branch campus route to rapidly expand beyond their administrative and financial capabilities. This was clearly the case with Culinary since almost all of the complaints registered against it concerned the branch classrooms where all the teaching occurred. From 1985 to 1989, none of its classrooms were ever visited by the accrediting body, i.e., ACCET, in order to determine the quality of education occurring at those locations--even in spite of the number of complaints that ACCET apparently received concerning the same classrooms.

The issue of Culinary's branch classrooms concerned the Department of Education in 1988. At that time it advised the school that they were not eligible to accept Title IV students. On April 13, 1988 Lois Moore, Chief of the Occupational/Vocational Eligibility Branch notified Mrs. Kibarian that the only eligible location was the main school and that the auxiliary classrooms became ineligible as of March 13, 1987, the date that Culinary withdrew its NATTS accreditation It appears that the Department had never received any information indicating that ACCET had accredited the auxiliary sites. Moreover, as explained in a May 5, 1988 letter to Larry Dodds, President of ACCET, Ms. Moore indicated that Deborah De Vries, ACCET's Associate Director, had told Education that some of the eight auxiliary classrooms were accredited.

Apparently, there was some confusion on the part of ACCET concerning their issuance of accreditation for these sites since the records indicate that on April 29, 1988, shortly after Culinary School received notification of ineligibility, ACCET wrote the Department and explained that they had accredited the auxiliary sites. In a letter, dated May 16, 1988, the President of ACCET, Larry Dodds, explained that:

> First, let me assure you that ACCET issued the letter listing the eight auxiliary classrooms as approved locations because it was an accurate portrayal of what really exists and existed at the time of the ACCET (then CNCE) on-site evaluation. The on-site evaluation team actually visited three auxiliary classroom sites as part of the visit, one of which was in the French Embassy.
>
> Also, since CNCE had limited involvement with schools with Title IV recognition, it was not realized that the accreditation approval needed to list the various sites.
>
> The Analytic Self-Evaluation Report (ASER), submitted prior to the on-site visit, listed the external classroom locations. The team visited three: French Embassy, Le Pavillon, and El Palacio.

The staff feels that letter is misleading. A review of the original 1985 ASER filed by the School clearly shows that only two of the eight branch/auxiliary sites are listed and neither were visited by the team. This casts some doubt on Dr. Dodd's assurances to the Department that the eight new locations accurately portray what "really existed at the time of the on-site evaluation."

In addition, there is no indication in the site team report that they visited the French Embassy, Le Pavillon and El Palacio. Lastly, in a letter from Culinary sent to Dodds on April 28, 1988, the school listed all of its past and current auxiliary branches. That letter clearly indicates that five of the eight locations that Dodds assures the Department were accredited during the initial 1985 site visit were not used by the school until 1986 at the earliest.

The staff was unable to clarify these apparent misstatements with Dr. Dodds or ACCET. However, the Department explained the importance of this disagreement over site accreditation to the staff in a recent interview. Apparently thousands of dollars in guaranteed student loans hinged on whether these locations were properly accredited. If the site had not been accredited, it would have been ineligible and therefore any loan processed at that site would technically be subject to possible repayment by the school.

In interviews with the Department the staff learned that they did not accept Mr. Dodd's explanation on accreditation of these sites. They rejected his assertion that they were accredited in 1985 when the original site visit was performed. However, they did recognize their eligibility from the date of the April 29th letter from ACCET that first listed them as eligible. When questioned, the Department staff were unable to advise the Subcommittee about the specific consequences of disallowing these auxiliary sites from 1987 to 1988.

C) DEPARTMENT OF EDUCATION

The staff found that almost from the start, the Department was aware or should have been aware of the problems at the Culinary school. This knowledge should have led to the school's removal from Title IV eligibility. If the Department had done so, the taxpayer as well as hundred's of students would have been saved needless expense.

Apparently, serious problems were noted in the first certification review report on Culinary prepared by the Department in January, 1983. In that report which closely followed the August, 1982 initial approval for participation, the site team found that the school was operating at ineligible locations, had not prepared proper financial aid material, made misstatements and incorrectly calculated its Pell grant awards.

A 1988 audit by the Department of Education, Inspector General noted a similar pattern of problems for the period of 1982 - 1985. Some of the highlights of its review included:

> CSW's first IPA audit report on its SFA programs was submitted approximately nineteen months late and disclosed that there were significant problems in

> CSW's administration of the SFA programs and that internal controls were so weak that material errors could occur. Also, CSW's second IPA audit report on its SFA programs was submitted approximately five months late and disclosed that significant problems continued in CSW'a administration of the SFA programs and that internal controls were still so weak that material errors could occur.
>
> Testing during the survey phase of our review disclosed indications of deficiencies in the administration of all SFA programs which CSW administered, and many of these deficiencies could involve significant liabilities to the U.S. Department of Education (ED).
>
> Because CSW did not have written policies and procedures for administering SFA programs, and during our review, there was no one at CSW who could explain what, if any, internal controls were in place for administering SFA programs, our study and evaluation did not extend beyond this preliminary review.
>
> Based on the results of our review, it is our opinion that CSW's management was fully aware of its noncompliance with SFA regulations, but failed to properly administer the SFA program and comply with its written assurances.

This 1988 report raised a number of troubling issues concerning the administrative capabilities of the Department. First and foremost is the finding by the Department of management problems in Culinary that apparently had not improved over time. If by July, 1986, the end of the on-site audit review, there still were no "policies and procedures" nor any person who could explain the school's program for administering the student loan program, one wonders when, if ever, there would be since this would be over three years after they were certified as eligible to receive Title IV funding.

Additionally, this report raises a question concerning the responsiveness of both the Department and the Inspector General to such systemic problems in the school's administration of the program. The 1988 audit report was initially prepared during 1986 and issued in draft form in 1987. The School was permitted to respond to the report, which it did so in July, 1987. Thus, it took two years for the Inspector General to issue his final report in February, 1988, which documented problems occurring six years before, in July, 1982 through December, 1985. Clearly such a serious problem should produce a faster response especially since the report highlighted default rates of 48% in 1983 and 71% in 1984.

Unfortunately, the school continued to operate during this six year process and even continued to operate after its release. The staff was unable to determine what, if any, "response" was generated by these findings except for the levying of a fine of $75,000. We have no record of this amount being paid although later correspondence to the Higher Education Assistance Foundation (HEAF) refers to payment of this fine.

The Department of Education was also aware of serious refund problems at Culinary identified by HEAF in 1984, 1985 and 1986. These problems became so serious that HEAF had to take immediate action to suspend Culinary from participation in the program because of their failure to pay tuition refunds of nearly $650,000. The implication of this refund problem becomes clearer when the staff determined that the HEAF guaranteed loan portfolio at that time was only about $3,000,000 based upon approximately 1,300 loans (See Inspector General Alert Memo of May 19, 1986). This meant that approximately 20% of the entire loan portfolio were not being refunded properly. Although we did not have the data to determine the exact amount, the implication clearly remains that a very high percentage of all the refunds were not being made by the school during this period. HEAF's findings were confirmed by the school's independent public accounting reports of 1986 and 1988 and the Inspector General's audit of 1988.

Apparently this problem persisted until the school closed. The 1990 Inspector General Inspection team found not only that the same problems still existed, but also that Culinary had back-dated refund checks to falsely give the appearance that the refunds were being made timely. A similar occurrence existed in the school's documentation of students' ability to benefit. Problems in that area were identified by the school's Independent Public Account (IPA) in 1986 and the Department of Education's Office of Student Financial Assistance in 1989. The Inspection Team found instances where ability to benefit test results were not available and other instances where test results were misleading because school officials assisted the students in completing the test.

There is no indication that these problems ever resulted in the removal of Culinary from the Title IV program. Although the staff was told that the school was eventually placed on a "reimbursement" schedule in 1989. This action was due to problems with the Pell grant program. This schedule did not affect the school's ability to admit or process GSL's which continued until its closing in 1990.

Apparently either the Department's certification and eligibility staff were unaware of these allegations or could not do anything in response to them. When interviewed, the Headquarter's staff of the Certification and Eligibility branch indicated that even if they had known about these problems, they could not have taken action against the school. They stated that, by law, they are limited by the narrow requirements that a school must fulfill concerning certification and eligibility. If the school meets them, and continues to do so, they must be certified as eligible.

During this same time frame, the school was also subject to a number of criminal investigations. The major investigation was conducted by the Inspector General and began on April 19, 1985. Initially based upon allegations received by the Federal Bureau of Investigation (FBI), the investigation also reopened the prior and concurrent audit work of the Inspector General, HEAF and Culinary's independent public accountants. The case was closed on October 3, 1988 without prosecution. In closing the investigation, the report concluded, "an Management Implication Report was not prepared since mismanagement was not found."

Although the Subcommittee usually does not question the prosecutorial discretion to terminate an investigation, the decision noted here does appear to contradict almost every investigation and/or audit conducted on Culinary. It clearly flies in the face of the February, 1988 Inspector General audit that found widespread mismanagement and concluded that the school's "management was fully aware" of it. In addition, it appears to have been contradicted by the Inspector General's own 1990 inspection team that stated:

> The inspection of Culinary School...identified patterns of misrepresentation at government agencies and noncompliance with program requirements by the school. The serious and recurring nature of the determination discussed in this report demonstrates that CSW lacked the administrative capability to participate in the Title IV programs.

D) VETERANS' ADMINISTRATION

Although not part of the triad, the actions of the Veterans' Administration (V.A.) in regards to the Culinary School are informative. Although the Veterans' Administration granted approval to the school on June 27, 1981, by October, 1982, they started to receive serious complaints. On October, 1985 final notification was given to the school that removal action was to be taken. Due to the school "moving its offices," the formal revocation hearing had to be cancelled. In the interim, another site visit, revealed continuation of the problems at the school. By March, 1986, the school was once again notified of a new revocation. A few days prior to the hearing, the school entered into an agreement to withdraw its veterans' approval. Although the school was allowed to resubmit an application for renewal, it was never readmitted to the program.

The actions of the Veterans' Administration presents an anomaly in our current federal student aid system. One branch of the government, in this case, can deny a school access to a student financial aid program while another branch (the Department of Education) at the same time permits its participation. Although grounds for admission and removal are essentially the same under both programs, we have two different results. The Veterans' Administration investigations found similar problems to those uncovered by the Department of Education. As a matter of fact, the Veterans' Administration shared all of its information with the Department and other agencies including the FBI, D.C. Licensure, etc. Nevertheless, the Veterns' Administration removed Culinary, while the Department of Education kept the school on its rolls until the school closed its doors.

V. CONCLUSION:

The staff review of the Culinary School highlights significant problems in how the federal government administers its student financial aid program. In all likelihood, the Culinary school should never have been certified in the first phase. Moreover, had proper site visits had been conducted by the Department of Education and later by ACCET, the school's shortcomings would have been exposed long before most of the damage was done to both the federal purse and the poor students who had placed their misguided trust in the system.

At a minimum the cost to the federal government was approximately $2 million. This figure is based solely upon HEAF's statement that they paid out $2.4 million in default, claims of which HEAF had to pay $500,000 and the taxpayer carrying the remainder of the expense. The staff does not know what the cost will be from the defaults that other guarantors had to pay. In addition, there are approximately 300 student loan borrowers who are still owed refunds by the school, some of whom attended as long ago as 1984. The amount still owed to them is approximately $150,000. These students are still obligated by law to pay for the full amount of the loan even though Culinary was supposed to have given them a refund.

The case study also exemplifies the problems previously cited about "education becoming big business." Like too many school owners, it appears that Dr. Kibarian viewed Culinary more as a way of making money than as an educational institution. This conclusion is readily apparent from the actions of Dr. Kibarian since Culinary's demise.

The staff was advised that during the summer of 1990, Dr. Kibarian commenced a mass mailing of schools throughout the country. A copy of his flyer, which we have attached as an exhibit, amounts to a bold solicitation to establish a new culinary school. Using Culinary School stationary and listing himself as Chairman of the Board, Mr. Kibarian does not mention his recent licensing, accrediting and financial problems but rather states:

> I have initiated and operated a chef's training school for the past twelve years here in Washington. As of August, 1989, we had as many as 600 students with revenues exceeding six million dollars. I am a former university president and tenured professor at Georgetown University and have been a director of recruiting for over ten years.
>
> I would like to propose that we establish a similar chef's training program on your campus. We will provide the curriculum and expertise, and can assure you a minimum of 100 students for the first year. They could not only aid in operating your cafeteria, but could also take some of your existing appropriate courses.
>
> Such a program could be an important source of revenue--I can assure you a minimum of $500,000 net profit the first year and $1,000,000 the second--with almost no capital outlay.

Attached to the letter is a seven page prospectus which shows the projected income and profit for the school. It indicates that Dr. Kibarian expects his scheme to generate $1.8 million in gross revenues with expenses of approximately $800,000. This leaves profits of a little over $1 million to be shared on approximately a 60-40 basis with Dr. Kibarian's share amounting to over $400,000. The document further explains that he assumes a "buy-out" by the institution in the third year of operations.

There appears to be no legal bar to Dr. Kibarian starting up another proprietary school. Moreover, the staff has been advised that he is also not prohibited from receiving certification from the Department of Education to operate a new Title IV program. However, there does appear to be a potential misrepresentation in the Doctor's correspondence. In regards to his credentials, we have learned that Dr. Kibarian has no current affiliation with Georgetown University nor is he currently tenured there. Correspondence dated July 6th from the Provost's office at Georgetown indicates that:

> Actually, Dr. Kibarian has not been associated with Georgetown University since June of 1967. He had taught marketing courses in the School of Business Administration from September of 1963 until June of 1967, and was given tenure as an Associate Professor in 1966, just one year before he left the University.

Just last week, the staff became aware of another mass-mailing by Dr. Kibarian who now lists himself as the

Chairman of the Board of the Culinary School of Washington, Paris, Rome and Beijing, Inc. This mailing is again a proposal for establishing a culinary school and we believe was sent, unsolicited, to a large number of proprietary schools throughout this area. In it he states:

> Enclosed is a proposal for your own turn-key cooking school, perfected by experience and proven the most profitable new program in demand by students and a depression-proof job market.
>
> Financially painless for you to start because we do all the work, and the tuition is in your hands before students start the program.

Again, Dr. Kibarian has attached a prospectus concerning the projected operations of the school. However, in the mass mailing, the Doctor encloses an already signed and dated (September 3, 1990) agreement to implement the chef's program. This agreement, again is informative about how the attitude of some school owners appears to stray from the original focus of the triad. This document is nothing more than a marketing tool and with the exception of four words in the first sentence, never discusses academics or educational issues. Highlights of Dr. Kibarian's latest proposal include:

> The purpose of this agreement is to create a Chefs Program for you that meets the standards of academic excellence and is financially sound.
>
> The specific resources provided by you and the schedule of payments are carefully designed to synchronize with the program's accomplishments, toward the common goal of generating a class and the resulting revenue.
>
> The implementation of this program is made up of four stages: The final stage is an insurance policy to assure continued success and to meet any emergency (such as a "a member quits" in the middle of the semester), review and bolster recruiting effort to assure a continuous flow of students. In essence, the program will operate as you envision it, and if you need us we are here.

As of the date of this statement, the staff has no evidence that anyone has taken up the Doctor on this or his other proposal. However, based upon our investigation, no doubt someone will. Unless there is some change to the current student financial aid system, it is very likely that if the Subcommittee ever revisits this issue again, as it did before in 1975, we may once again be using the Culinary School as our case study of its problems.

LIST OF CHRONOLOGIES

A. Higher Education Assistance Foundation (HEAF) Chronology

B. Accrediting Council for Continuing Education and Training (ACCET) Chronology

C. National Association of Trade and Technical Schools (NATTS) Chronology

D. D.C. Licensing Chronology

E. State of Virginia Chronology

F. U. S. Department of Veterans' Affairs Chronology

G. U.S. Department of Education Chronology

HIGHER EDUCATION ASSISTANCE FOUNDATION (HEAF)
CHRONOLOGY OF SIGNIFICANT EVENTS
CONCERNING THE
CULINARY SCHOOL OF WASHINGTON

June 5 - 6, 1984	HEAF conducts site program review visit. The site visit uncovered a number of refunds not having been made and students receiving loans even after they had dropped out of school. In addition, they found that: * "The manner in which The Culinary School of Washington (CSW) maintains records on students makes it extremely difficult to determine the students' experience with the school. The review indicated that the majority of student files were missing at least one enrollment agreement. Many files were also missing the school's copy of the Guaranteed Student Loan application. Files were also missing academic transcripts. The result of this made it difficult to determine which semesters students were enrolled and which semester the students actually began attending Culinary School." * The review noted that some students who were attending Culinary School were non-U.S. citizens...There is no indication that the school has, in fact, verified that the students are eligible to receive a guaranteed student loan. (Source: Site Visit Report and letter of 7/12/84 to CSW from HEAF)
Apr. 25-26, 1985	HEAF conducts its second program review of the school. Although it notes substantial improvement since 1984, it also finds a number of areas of concern including a very high cancellation rate for student loans. (Source: Site Visit Report and letter of May 17, 1985 from HEAF to CSW)
Feb. 27, 1986	HEAF notifies U.S. Dept. of Education, Office of Audit, Inspector General's Office of 11 students receiving late refunds as well as other instances where CSW has not notified its lender of program withdrawal dates. (Source: February 2, 1986 letter of Lynda M. Irish, Compliance Specialist to Sean Malone, Ed. I.G. Office of Audit)
June 17, 1986	HEAF notifies CSW that it intends to suspend them from participation in federal student loan program. This suspension results from a review that:

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	* "has indicated that the Culinary School has paid refunds extremely late, and that the school has failed to report student withdrawals in accordance with the regulations. In addition, former employees of the school have stated that they were instructed to falsify information pertaining to the Guaranteed Student Loan program, and that they were instructed to keep student as enrolled after the students withdrew. Furthermore, several students have disputed the signatures on these loan checks, causing the Foundation to question the validity of those signatures." (Source: June 17, 1986 letter from HEAF to CSW)
Oct. 21, 1986	Limitation agreement signed by HEAF and CSW whereby CSW agrees to provide tuition refunds to former students totalling approximately $550,000 plus interest at approximately $15,000/month. (Source: May 20, 1987 letter from HEAF to CSW.
Nov. 6, 1986	HEAF sends Ron Lipton of the Dept. of Ed. Division of Certification and Program Review a copy of the limitation agreement and asks for copies of the criminal and civil audits by the Inspector General. (Source: November 6, 1986 ltr. from HEAF to ED)
July 1987	Program review conducted by HEAF. (Source: July 27, 1988 letter of Michael Nelson, to CSW)
July 28, 1987	HEAF advises counsel to CSW of violations of the Limitation Agreement by not paying current refunds on time. It concludes by stating: * "I have been operating under the assumption that this school was meeting its current obligations on refunds and, therefore, this subject would not be an issue. However, since it has become an issue, I no longer have much faith that the school has the management ability to monitor and pay the currently due refunds." * "You need to inform the school that this is absolutely the last time HEAF will tolerate any late refunds. Should the subject of late or unpaid refunds arise again, HEAF will without any notice to the school...exercise its ability to summarily terminate the school from the HEAF programs." (Source: July 28, 1987 letter from Gary Musselman, Compliance Officer of HEAF to Ronald Schwartz of White, Fine & Verville, Attorneys at Law)

Aug. 3, 1987	HEAF advises the D.C. Office of Consumer and Regulatory Affairs that CSW is current in its payments and has to date paid $136,533.23 to lenders. (Source: August 3, 1987 ltr. of Ann Scott, Compliance Analysts of HEAF to Oliver Johnson)
June 6-7, 1988	Program review conducted by HEAF finds serious problems. The review noted that: * "...the institution continues to have serious problems and administrative errors in its handling of the student loan program. The school also continues to demonstrate noncompliance with the terms of the Limitation Agreement entered into in October, 1986. The findings range from improper loan disbursements and late student loan refunds, to inaccurate, inconsistent record keeping methods...." * "The findings of this review seriously question the institution's ability to provide the required internal controls as well as its ability to properly administer the Guaranteed Student Loan program." * "After reviewing the financial aid files selected during the review, it is apparent that CSW has consistently certified and forwarded to HEAF student loan applications prior to the student attending class." * "Our review found that there was no apparent effort on CSW's part to withhold the endorsement of student loan checks. Whenever possible, the checks were endorsed and deposited upon receipt from the lenders." * "The Culinary School continues to be late in making required refunds." * "Until the date of HEAF's Program Review, the Culinary School had failed to provide HEAF the required copies of correspondence to and from the Office of Inspector General of the Department of Education regarding its past audit. Upon HEAF's request, the report and the school's response were provided." * "Furthermore, in reviewing the Culinary School's response, several instances occur in which the school claims to be representing HEAF's position. HEAF did not make the following statement:

  - 'Higher Education Assistance Foundation (HEAF) officials have expressed that CSW is its most admirable example of a school that has conquered the circumstances that created GSLP problems by allowing the system to work.'"
- "Secondly,
  - 'Through HEAF the School has made exemplary progress in its defined payback program. The CSW has maintained excellent compliance with its HEAF agreements.'"
- "The previously cited violations show this to be incorrect, Finally, in closing CSW states to the Inspector General:
  - 'HEAF and CSW believe that for all findings and most recommendations that monies have and are continuing to be provided.'"
  - "Again, HEAF cautions CSW in taking liberties in representing HEAF in any form of correspondence."
- "Since the signing of the Limitation Agreement, CSW has undergone a required two-year non-federal audit. HEAF had not received either a copy of this audit or the institution's required response until the date of the June 6th program review." (Source: Letter of July 27, 1988 from Mike Nelson, HEAF Compliance Specialist to CSW)

Jan. 30, 1989	HEAF writes to CSW concerning their response to the program review audit. (Source: January 30, 1989 letter)
March 3, 1989	Meeting at HEAF offices between Barkev Kibarian and Richard C. Hawk, Chairman of Board of HEAF to discuss open issues from June '88 review. (Source: April 6, 1989 letter to CSW)
March 10, 1989	Senator Paul Simon writes to Richard C. Hawk, Chairman of the Board of HEAF at Barkev Kibarian's behalf suggesting that he meet with Kibarian to discuss the January 30, 1989 letter of HEAF to CSW. (Source: March 10, 1989 letter from Senator Simon to Hawk)

March 15, 1989	Sarah D. Malm, Legislative Assistant to Senator Simon corresponds to Robert Hanrahan, consultant and agent for CSW that: • "Thank you for your note. I have notified Senator Simon's Administrative Assistant, Floyd Fithian, of the offer to host a fundraiser. Mr. Fithian should get in contact with you directly." • "I have enclosed a copy of the letter sent to Richard Hawk per your request." • "Let me know if I can be of further assistance." (Source: March 15, 1989 letter from Malm to Hanrahan)
April 6, 1989	Richard Hawk advises Senator Simon of the recent meeting he had with Barkev Kibarian, Robert Hanrahan and Ray Pennel and provides him with a copy of his April 6 letter to Kibarian. (Source: April 6, 1989 letter to Senator Simon from Hawk)
April 6, 1989	Richard Hawk advises Kibarian of results of the compliance staff's review of the issues raised at the March 29th meeting. (Source: April 6, 1989 letter to Kibarian from Hawk)
June 10, 1989	Culinary School asks HEAF to stagger their payment because the Department of Education has fined them as the result of an audit. (Source: letter of June 10, 1989)
July 31, 1989	HEAF agrees to lower payment from $15,000 to $7,000 per month from July - December, 1989 in return for CSW paying $20,000 per month from January, 1990 onward. (Source: letter of July 31, 1989)
Sept. 13, 1989	HEAF advises CSW that since October, 1986 CSW has made payments of $509,739.36 in refunds and excess subsidies to Department of Education. (Source: letter from Ann Scott, HEAF to Hamid Tabatibai, CSW)
Nov. 3, 1989	Senator Simon writes to Mr. Hawk and urges him to consider rescheduling CSW's monthly payment to not exceed the $7,000 a month it is currently paying. (Source: letter of November 3, 1989 from Senator Simon to Mr. Hawk)
Nov. 9, 1989	Senator Simon advises Myrna Dworksy, a former Culinary School employee, that he was not aware of Culinary's problems. He states:

"Dear Friend:

Many thanks for your thoughtful note, which arrived the evening before my breakfast meeting.

I was not aware of these problems, and I appreciate your calling them to my attention.

I believe I handled myself carefully.

I do believe that proprietary schools can make a significant contribution to the nation, but there have been abuses from time to time, unfortunately." (Source: Letter of November 9, 1989 from Senator Simon to Myrna Dworsky)

Nov. 20, 1989	Mr. Hawk advises Senator Simon that HEAF can not agree to the $7,000 level but is willing to allow the school to return to its previous level, $15,000, beginning January 1, 1990, rather than the $20,000 payment previously agreed to. (Source: November 20, 1989 letter from Mr. Hawk to Senator Simon)
Nov. 22, 1989	Wendie Doyle, Assistant Vice President for HEAF, advises Kibarian of the substance of the November 20, 1989 letter to Senator Simon. (Source: November 22, 1989 letter from Doyle to Kibarian)
Nov. 29, 1989	CSW suggests to HEAF that their loan repayments remain at the lower $7,000 amount per month because of a recent payment of $75,000 to Department of Education and "an embezzlement by one of our former employees." (Source: November 29, 1989 letter from Hamid Tabatabai to Wendie Doyle)
Dec. 20, 1989	HEAF agrees to forbear payments until March 1st when it will commence at the rate of $15,000 per month. (Source: December 20, 1989 letter from Doyle to Tabatabai)
Feb. 14, 1990	HEAF files a bankruptcy claim in the amount of $146,292.03 for student loan refunds plus approximately $50,000.00 in interest charged to students by lenders and "excess federal subsidies" pursuant to 11 U.S.C. 1078 (total requested is $196,292.03). (Source: Proof of Claim of HEAF filed in case No. 90-00015)

ACCREDITING COUNCIL FOR CONTINUING EDUCATION & TRAINING (ACCET)
CHRONOLOGY OF SIGNIFICANT EVENTS
CONCERNING THE
CULINARY SCHOOL OF WASHINGTON

May 10, 1985	Dr. James Grey, Academic Consultant, Culinary School of Washington, telephoned the Council for NonCollegiate Continuing Education (former name of ACCET) concerning accreditation. (Source: Inquiry Log of CNCE dated 5/10/85)
May 10, 1985	Inquiry Log has the following notations: • "Placement is 95% grad class" • "12 full-time instructors" • "Simulations, $1 million kitchen" • "NATTS, looking for double accreditation" • In response to the question of why is the organization seeking accreditation by the CNCE? is the notation: "in case of other to change." (Source: Ibid)
May 10, 1985	Materials for accreditation are sent to CSW. (Source: 5/10/85 letter of Debbie De Vries)
May 21, 1985	James Gray submits application for accreditation to CNCE and forwards a $300 check to start accreditation process, stating that: • "The school is anxious to begin the self-evaluation as soon as possible". (Source: 5/21/85 letter of Gray to De Vries)

June 21, 1985	Analytic Self-Evaluation Report (ASER) is completed and signed by Mary Ann Kibarian as President of CSW, including financial statements for 1983 and first 6 months of 1984. They indicated:
	• 12/31/1983 -- Revenues of $938,009
	  • Expenses of $771,136
	• 6/30/84 -- Revenues of $684,239
	  • Expenses of $566,841

June 28-29, 1985	Site visit of Culinary School conducted found no major problems with the school and commended the school on its management, curriculum and student

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	records filing system. Sites visited was 1050 Connecticut Ave., N.W., Washington, D.C. (Source: CNCE Examination Team Report)
July 15, 1985	Audit financial statement of CSW indicates that for the year ending December 31, 1984 the CSW had: * Net Revenues -- $1,182,553 * Operating Expenses -- $1,290,600 * Net Income (Loss) -- ($75,988) (Source: July 15, 1985 report of Laurence Larry, CAP, found in the ACCET files of CSW)
July 26, 1985	CNCE advises Dept. of Ed. of CSW's accreditation to be effective on July 18, 1985 for 1050 Connecticut Ave., N.W., Washington, D.C. (Source: Letter of Larry Dodds dated 7/26/85)
August 19, 1985	CNCE notifies Culinary that they have been granted accreditation for a period of 5 years until August 31, 1990. (Source: letter of 8/19/85 of Larry Dodds)
Dec .6, 1985	CSW notifies CNCE of change of their office to 1601 Connecticut Ave., N.W. (Source: letter of 12/6/85)
Dec. 11, 1985	CNCE approves the new location without any record of a site visit. (Source: letter of 12/11/85 from Larry Dodds to Dept. of Education)
1987-1988	A series of complaints by students and staff are processed by ACCET for review and resolution.
Jan. 27,1988	Dept. of Education advised CSW that none of its auxiliary classrooms are eligible for the federal student aid program. It references a letter to CSW concerning these auxiliary classrooms dated 9/4/86 to which they have not yet received a response. (Source: 1/27/88 letter of Lois Moore to Kibarian)
Feb. 29,1988	CSW responds to Dept. of Ed. by stating that they never received the 1986 letter and enclose approval for the auxiliary classrooms from D.C. Licensure and ACCET. CSW also claims that ACCET does not give separate approvals for auxiliary classrooms but includes a blanket approval. (Source: 2/29/88 letter of Melany LaCount to Lois Moore)
April 13, 1988	Lois Moore notifies CSW that only the main campus located at 1601 Connecticut Ave., N.W. is eligible

and the other two locations became ineligible on March 13, 1987 when CSW informed the Department that CSW had withdrawn from NATTS accreditation. She states:

- "You were not notified earlier of the ineligibility of these locations because the Culinary School is also accredited by the Accrediting Council for Continuing Education and Training (ACCET) -- formerly the Council for Non-collegiate Continuing Education. However, we were recently informed by ACCET that the scope of their accreditation extends only to the main campus of the Culinary School. Contrary to your statement in your February 29, 1988, letter to me, ACCET does issue separate accreditation approvals for auxiliary classroom locations." (Source: letter of April 13, 1988 to CSW)

April 28, 1988

CSW advises Larry Dodds of the history of its classroom facilities and indicated that they were used for the following periods:

* Ascot Restaurant	3/85 - present
* Washington Post	5/85 - present
* Logan	3/86 - present
* Blue Plains	7/87 - present
* Washington Times	1/85 - present
* National Lawyers Club	2/87 - present
* Shaw, Potts, et.al.	7/87 - present
* Int'nl Food Emporium	7/87 - present

(Source: April 28, 1988 letter to Dodds from LaCount)

April 29, 1988

ACCET approves the relocation of CSW's main campus to 1 Farragut Square, South, 1634 I St., N.W. Records do not indicate any site visit. (Source: letter from ACCETT to CSW)

April 29, 1988

ACCET advises CSW that eight auxiliary classrooms are considered accredited as part of the main campus' accreditation. No record of any site visit for these locations. The locations are:

- Ascot Restaurant
  1708 L Street, N.W.
  Washington, D.C. 20036

- Washington Post
  225 Virginia Avenue, S.E.
  Washington, D.C. 20061

- Logan Building
  (D.C. Facility)
  3rd & G Streets, N.E.
  Washington, D.C. 20002

- Blue Plains Treatment Facility
  (D.C. Facility)
  5000 Overlook Drive, S.W.
  Washington, D.C. 20032

- Washington Times
  3600 New York Ave., N.E.
  Washington, D.C. 20002

- Federal Lawyers Club
  1815 H Street, N.W.
  Washington, D.C. 20006

- Shaw, Potts, et. al.
  Law Firm
  2300 N. Street, N.W.
  Washington, D.C. 20037

- International Food Emporium
  1875 Connecticut Avenue, N.W.
  Washington, D.C. 20009

(Source: April 29, 1988 letter to CSW)

May 4, 1988 ACCET notifies CSW of approval for an auxiliary classroom at the Holiday Inn - Fair Oaks, Fairfax VA. No record of a site visit. (Source: May 4, 1988 letter to CSW)

May 16, 1988 ACCET advises Dept of Education of the recent approval of the eight auxiliary classrooms. In it Larry Dodds indicates that:

- "First, let me assure you that ACCET issued the letter listing the eight auxiliary classrooms as approved locations because it was an accurate portrayal of what really exists and existed at the time of the ACCET (then CNCE) on-site evaluation. The on-site evaluation team actually visited three auxiliary classroom sites as part of the visit, one of which was in the French Embassy."

- "Also, since CNCE had limited involvement with schools with Title IV recognition, it was not realized that the accreditation approval needed to list the various sites."

- "In the case of the Culinary School of Washington, Ltd., the fact that they needed CNCE to list the sites never became an issue since they had NATTS accreditation. Had the school not been accredited, this oversight on CNCE's part would have been discovered."

- "The Analytic Self-Evaluation Report (ASER), submitted prior to the on-site visit, listed the external classroom locations. The team visited three: French Embassy, Le Pavillon, and El Palacio."

- "I am puzzled by the in-depth nature of your letter and pursuit by the U.S. Department of Education in what appears to be an easily resolvable and justifiable situation."

- "Is there something else in the background about which I need to be apprised? If so, I believe the time has come to share it with me. If not, I have a difficult time trying to understand why there appears to be a 'major error' on the part of the school or ACCET."

(N.B. a review of the ASER prepared by CSW at the time of the initial accreditation only lists two of the eight auxiliary sites; the ASCOT Restaurant and Washington Times. There is no indication in the site team report that the French Embassy, Le Pavillion and El Palacio were visited by the site evaluation team. Moreover, they are not included in the new auxiliary site list of 1988.) (Source: May 16, 1988 letter and records)

Aug. 10, 1988 Larry Dodds, President of ACCET writes to Ray Pennell Executive Vice President of CSW concerning another letter requesting further clarification of their auxiliary sites. He stated that:

- "...I am having a very difficult time understanding why the U.S. Department of Education is having so much difficulty with this arrangement. A similar arrangement existed when the institution was accredited by the National Association of Trade and Technical Schools (NATTS); I was unaware of a problem with eligibility of any of the sites during that tenure. Why, now, is there a sudden problem? Are there some facts or pieces of the puzzle that are not being shared with ACCET? Or, is the Department being unreasonable in the area of detail about this issue? Or, is it both based upon the 'not so positive' history of the overall operation of the culinary institution?"

- "One example that has been followed repeatedly by the Culinary School of Washington, Ltd. is not dating correspondence. This is done on a regular basis; although not intentional, it is unusual."

- "All future correspondence of the institution must be dated."

- "Furthermore, as you know, I and ACCET members have spent hours on this particular project alone. In addition, the time spent on the various written complaints, following up on TV station stories, responding to other U.S. Department of Education queries (whether justified or not), questioning 'on the line' advertising and recruiting practices and other similar issues have worn heavily on the patience that can be endured by an accrediting agency."

- "It is time for Culinary School of Washington, Ltd. to sit back and assess its total operation to see in what way, if any, it is failing or is "minimally" meeting the high standards required for accreditation. If such an analysis reveals everything to be in average, above average or exemplary in nature, that's great."

- "If on the other hand you find areas in admissions, recruitment, advertising, management, personnel, financial practices and stability recordkeeping and/or student and client satisfaction (just to name a few) that need attention, then a definite plan to improve must be developed; this must be done immediately!"

- "There are rumors continually being generated from Washington, D.C. about this institution. In fact, the pipeline for this type of information is better than from Capitol Hill. The latest has the headquarters moving out to Northern Virginia to the Fair Oaks location and declaring that as the main campus; some say that is to take advantage of Virginia licensing and for their reasons. If there are future moves planned or changes of any type for which ACCET approval is needed (and there are not many excluded) I suggest you contact ACCET before you begin, so that improper assumptions

	of approval are not made." (Source: Letter dated August 10, 1988 from Larry Dodds to Ray Pennell)
Nov. 20, 1988	ACCET receives a complaint concerning false advertising by CSW wherein they claim to be operating in Maryland. (Source: letter of November 20, 1988)
Jan. 9, 1989	ACCET advises complaintant that they have contacted the school to get a written response. (Source: letter of January 9, 1989)
Feb. 22, 1989	ACCET notifies CSW of approval of auxiliary classrooms at Dulles Airport and Chef's Restaurant in Washington. No record of a site visit for either location. (Source: letter of February 2, 1989)
May 15, 1989	ACCET receives complaint alleging fraud, mismanagement and other irregularities from a number of students and former employees. (Source: ACCET files and letter of May 25, 1989 from Larry Dodds to Mary Ann Kibarian)
June 8, 1989	Janie Wheeler of ACCET is contacted by John Mintz of the Washington Post concerning allegations against CSW. She also advises Mary Ann Kibarian of possible story. (Source: June 8, 1989 memorandum from Jancie Wheeler to file)
June 23, 1989	Barkev Kibarian writes to Lary Dodds, President of ACCET and states: * "You will be happy to know that the fund raising for Senator Paul Simon is moving along very successfully. I have already received checks for the amount of $2000 from individuals to be co-sponsors. All of these donations have been personal. It requires $2000 to be a co-sponsor: a $1000 gift and 4 $250 tickets. Individual purchases of tickets are also moving along." * "When this fund-raiser is completed, I would like to suggest that we raise a $1 million endowment for CEA/ACCET. This endowment would give a sense of permanency. If this concept would meet the approval of your board, I would be very happy to spearhead the drive and have no doubt that we could raise it within one year of the Simon fund-raiser."

	* "In the meantime, Ray has brought it to my attention that he has requested a letter from you to be sent to Joan Duval. The timing has reached a sense of urgency and I would be grateful if you could send the letter before the July 4th Holiday."
	* "We enjoyed having Tammy with us and since her German is so good she may wish to be with us at the graduation at the embassy." (Source: letter of June 23, 1989 from Barkev Kibarian to Larry Dodds)
Oct. 12, 1989	Jaine Wheeler, Vice President of ACCET, advises Mary Ann Kibarian of the fact that the file is still open concerning a number of complaints pending a final report from Director Stone of D.C. Licensure. (Source: October 12, 1989 letter to Mary Ann Kibarian)
Jan. 4, 1990	ACCET receives package of information from Virginia Department of Education concerning allegations surrounding Richmond location. (Source: files of ACCET)
Jan. 5, 1990	Jaine Wheeler advises Larry Dodds that ACCET should issue a Show Course order to CSW based upon these allegations. (Source: Memorandum of January 5, 1990)
Jan. 8, 1990	Fax from Roger William of CEA of ACCET office to Larry Dodds concerning a Washington Post article of January 8, 1990 in which he states:
	* "You may wish to act quickly on the growing debacle that is underway. This is not only a tragedy for the students but a potential blowup for ACCET as well. Can we assure anyone at DOE that we are on top if it? Who? When? How?" (Source: Fax dated January 8, 1990 from Roger William to Larry/Gary)
Jan. 8, 1990	Larry Dodds advises CSW of the issuances of a show cause order. (Source: January 8, 1990 letter from Dodds to Kibarian)
Jan. 17, 1990	ACCET site evaluation team is scheduled to visit CSW. This site visit was postponed pending the bankruptcy filing. (Source: Ibid)

NATIONAL ASSOCIATION OF TRADE AND TECHNICAL SCHOOLS (NATTS) CHRONOLOGY OF SIGNIFICANT EVENTS CONCERNING THE CULINARY SCHOOL OF WASHINGTON

Apr. 8, 1982	Initial Accreditation of Executive Gourmet Chef program. (Source: Letter from Culinary School of Washington Atty. Stephen Matthews to Dorothy Fenwick, Apr. 10, 1989)
May, 1984	Catering program accredited. (Source: Ibid.)
May, 1984	NATTS office begins to receive complaints concerning CSW. Because of their severity, the Executive Committee of the Commission directs that a special visit be conducted. (Source: Memo from Mary Draper to the Accrediting Commission, Dec. 14, 1984)
Dec. 4, 1984	Site visit of CSW finds 26 serious concerns or potential problems vs. four favorable comments. Some of the findings were: * CSW's promotional literature represents it as a credit-hour school; however, documents submitted to NATTS specify that the school is on a clock-hour basis. * Enrollment agreement includes no provisions for increasing tuition. A sampling of files following the increase in tuition after 8/1/83 shows that many students signed enrollment agreements when the total cost of the program was $6,000 prior to the increase of 8/1/83, yet they are required to pay the increase. * While the school is required to submit forms for separate classroom facilities, those on file with NATTS do not match present facilities being used by the school as separate classrooms. * Numerous instructors and students complain that renovations and the odor of raw sewage make learning conditions very difficult at the Shoreham Hotel. * A high rate of staff turnover. * Of 12 random files selected, all are missing required data, such as high school diplomas (10 files), enrollment agreements (six files), etc.

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- A random sampling of 15 student files from class starting Sept. 22, 1984, shows eight students lack a high school diploma, four lack an enrollment agreement, 12 lack a doctor's letter, and 10 lack a letter of acceptance.

- It is unclear to the visiting team who has ultimate accountability for the files, which are divided among three areas: registrar, accounting, and academic. No one person is willing to acknowledge final accountability.

- School's literature specifies that only high school graduates are eligible for acceptance into the program. However, visiting team finds numerous files of non-high school graduates, who not only have been admitted to the program, but who have files lacking documentation.

- School's policies on attendance and tardiness do not appear to be educationally sound. No limits are placed on tardiness or absenteeism. Many students who have not attended classes for up to three or four months still appear in the active files, thus preventing refunds from being made on time. The system is inherently defective and requires total reorganization.

- Due to the visiting team's inability to determine when students are dropped or when their last date of attendance is, it is difficult to determine if refunds are made within 30 days. A sampling of files on dropped students does not have any evidence that refunds have been made within 30 days.

- Descriptions in promotional literature of physical facilities for the school's various instructional programs appear to be misleading.

- Student rosters supplied to the visiting team for the calendar year 1983 indicate a high rate of attrition.

- Approximately 50 percent of the 30 students interviewed say they did not know that classes would be held in various restaurants in the Washington area. These students specifically state that these various locations are not mentioned in any of the school's literature provided to them.

- Numerous currently enrolled students state that they expected to receive an associate degree upon graduation. (The parent of one student expresses the same expectation.) While the school has applied for associate degree status with the District of Columbia, no approvals exist. (Source: Team Summary Report, Dec. 10, 1984)

Jan. 10-12, 1985 The Accrediting Commission reviewed the Team Summary Report and the school's response to the special visit conducted on Dec. 4, 1984. Due to the serious nature of the concerns raised by the visiting team, the Commission directed the school to undergo a total re-evaluation to verify compliance with accrediting standards. The school is directed to submit a Self-Evaluation Report within 60 days of notification of this action. Upon receipt of the Self-Evaluation Report the school will be contacted to arrange a visiting team date which will be suitable to all parties. (Source: Accrediting Commission minutes, Jan. 10-12, 1985)

Apr. 11-13, 1985 The Commission reviewed information regarding the school's new separate facilities. The Commission is concerned with the complete change in classroom and therefore deferred action on recognizing the classrooms until the required team visit is conducted and the necessary reports are received. The school was also directed to provide evidence that the classrooms are licensed by the Educational Institution Licensure Commission of the District of Columbia. (Source: Accrediting Commission Meeting minutes, Apr. 11-13, 1985)

Oct. 13-16, 1985 Accrediting Commission Meeting: The following motion for "failure to continue accreditation subsequent to a call up" was moved, seconded, and carried:

- "The school was called up as a result of two student complaints filed in the NATTS office which centered around administrative practices, tuition accounting, and educational organization. At the time of the visit, additional complaints were voiced by students which call into serious question the integrity of this institution."

- The school failed to inform the Accrediting Commission of the addition of two separate classrooms at Howard University and Washington Post.
- The School failed to demonstrate that all instructors have a minimum of two years of practical experience.
- The school failed to demonstrate that it has a course of study showing a scope and sequence of subject matter sufficient to achieve the announced objectives.
- The school failed to demonstrate that it provides applicants with a catalog.
- The school failed to consistently document the initial placement of graduates.
- The school failed to properly substantiate its placement rates in advertising.
- The school quotes unsubstantiated earning potentials of $60,000 per year in printed materials and up to $1,000 per week in radio advertisements.
- The school uses the word "free" and superlatives such as "fastest growing" in radio advertisements and printed materials.
- The school has used blind advertisements
- The school failed to accept the full responsibility of an individual under its employ who prepared and ran advertising.
- The school failed to properly advertise its accrediting status with reference to the accrediting body.
- "The school failed to demonstrate that student financial records, as well as other educational records, are securely maintained." (Source: Accrediting Commission minutes, Oct. 13-16, 1985)

Jan. 18, 1986 The Appeals Panel of the Accrediting Commission met to consider the Commission's action to fail to renew accreditation to the Culinary School of Washington, Ltd.

The Appeals Panel voted to remand the school to the Commission with the recommendation that the school undergo a total re-evaluation in accordance with Commission procedures. As part of the process, specific emphasis should be placed on the eight (8) items listed below:

* The school failed to inform the Accrediting Commission of the addition of two separate classrooms, Howard University and Washington Post.

* The school failed to demonstrate that all instructors have a minimum of two years practical experience.

* The school failed to demonstrate that it uses a single enrollment agreement.

* The school failed to demonstrate that it provides applicants with a catalog.

* The school quotes unsubstantiated earning potentials of $60,000/year in printed materials and up to $1,000/week in radio advertisements which fail to include the normal range of starting salaries.

* The school uses the word "free" and superlatives such as "fastest growing" in radio advertisements and print materials.

* The school failed properly advertise tis accrediting status.

* The school failed to demonstrate that student financial records, as well as other educational records, are securely maintained.

Further, the Appeals Panel directs that this process be completed no later than Sept. 1, 1986 for consideration at the Oct. 1986 Commission Meeting.

The accreditation of the Culinary School of Washington, Ltd., will continue until the final resolution of this case. (Source: Letter from Fenwick to Kibarian, Jan. 29, 1986)

Apr. 9-11, 1986 The Accrediting Commission adopted the Appeals Panel recommendation that the school undergo a total re-evaluation, which include the preparation of Self-Evaluation Report and an onsite Team Visit to the main facility and all

	separate classrooms. The school should direct continued attention to correcting or improving the eight items disclosed in the Appeals Panel's letter of Jan. 29, 1986. The Commission also adopted the Appeals Panel's recommendation that this process be completed no later than Sept. 1, 1986 for consideration at the Oct. 1986 Meeting. (Source: Accrediting Commission minutes, Apr. 9-11, 1986)
Aug. 27-29, 1986	School visited by: Management Specialist, Mr. Harry Overton, Regional Vice President of Operations, DeVry Institute of Technology. Education Specialist: Dr. Robert Carey, Chairman, Education Division, Indiana University. Subject Specialist--Chef/Catering/Pastry: Mr. Jack Braun, Chesterfields Restaurant, Huntington, Pa. Staff Member: Ms. Mary F. Busey, Assistant to the Secretary, NATTS Accrediting Commission. (Source: Visiting Team Announcement, Aug. 27-29, 1986)
Sept. 23, 1986	Team Summary Report sent to school. (Source: Letter from Fenwick to Kibarian, Dec. 2, 1986)
Sept. 29, 1986	School requests additional 90 days to respond to Team Summary Report. (Source: Letter from Fenwick to Kibarian, Dec. 2, 1986)
Oct. 8, 1986	Executive Committee agrees to additional 30 days for response (total of 52 days) - by this action consideration of the school is moved to the Jan. 1987 Commission agenda. (Source: Letter form Fenwick to Kibarian, Dec. 2, 1986)
Nov. 13, 1986	School response date - Ray Pennell requested by phone additional time extension to file response due to staff illness at school - extension granted until Nov. 24, 1986. (Source: Letter from Fenwick to Kibarian, Dec. 2, 1986)
Nov. 26, 1986	School response to 25 of 32 concerns received in NATTS office. In Culinary Schools response, they request that the commission choose one of the following proposals: * The Commission defer action of the Culinary School accreditation until the Fall of 1987.

- The entire reaccreditation review of the Culinary School be recycled into Jan. 1988 by which time, the School and NATTS will have had an adequate time frame to address the concerns set forth in the Team Summary Report. (Source: Letter from Kibarian to NATTS Chairman Thompson, Nov. 24, 1986)

Jan. 26-29, 1987 The following motion for failure to grant renewal of accreditation was moved, seconded and carried:

The Accrediting Commission failed to grant renewal of accreditation to the Culinary School of Washington, based on the school's failure to provide evidence that it is in compliance with the following standards:

- "The school provided no evidence that opportunities exist in the food industry for large income" and that "there are many available unfilled jobs." In addition, the school provided no documentation to support the claim "that programs in catering or the waiter-waitress courses are offered exclusively by the Culinary School of Washington, Ltd."

- The school failed to submit documentary evidence to refute the following concerns:

  The Chef class at the Logan facility was tracked for attendance. The roster showed an enrollment of 26 students of which only 9 students attended the first week of class.

  Three students were permitted to enter the class two weeks after it started. It does not appear that attendance was taken for the class on four consecutive days. There was no documentation of any attendance for this class after July 31, 1986.

  Taken in the aggregate and in light of this evidence, the Commission concluded that the school showed inadequate care in creating and maintaining attendance records.

- Taken in the aggregate, the Commission concluded from the evidence and the absence of any persuasive explanation for it that the school did not show adequate care in creating and maintaining Enrollment Agreements and associated documents.

- The school failed to provide evidence that it has trained students for positions comparable to those described in the catalog, program objectives, and course titles.

- The school failed to demonstrate that a high proportion of its graduates benefit from training received. Specifically, the school failed to provide evidence in its graduate placement records that graduates were placed in jobs for which they were trained.

- The school failed to provide documentation supporting the graduate placement statistics for the March 18, 1986 graduation of the Chef program.

- The school failed to show evidence of sound financial structure as reflected by the financial statement which shows:

  - Large losses over the last two years.

  - Negative equity.

  - Existence of a substantial liability for repayment of Guaranteed Student Loans.

- The school failed to provide documentation of its academic advising services.

- The documentation provided by the school showed that its drop rate is excessive as evidenced by the retention figures for the Executive Chef, Pastry, Catering and Professional Host programs.

- "The school failed to provide supporting documentation (ie. class rosters) to show student-teacher ratio." (Source: Accrediting Commission minutes, Jan. 26-29, 1987)

Feb. 5, 1987

The school is notified by mail that the school's application for renewal of accreditation and supporting data were considered by the Accrediting Commission at its meeting on Jan. 29, 1987 in accordance with its procedures and that the Commission failed to grant renewal of accreditation. (Source: Letter from Fenwick to Kibarian, Feb. 5, 1987)

Feb. 10, 1987	Mrs. Kibarian advises NATTS of desire to appeal the Commission's Jan. 29, 1987 action to fail to grant the school accreditation. (Source: Letter from Fenwick to Kibarian, Feb. 17, 1987)
Mar. 4, 1987	Mrs. Kibarian informs NATTS that the Culinary School of Washington has decided to withdraw from NATTS and the Accrediting Commission. She states that "their school has not received fair evaluations from the Commission in the past and they do not believe it is possible to receive a fair evaluation in the future. They particularly feel that the individuals selected by the Commission to conduct the on site evaluations allowed racial and ethnic prejudice to influence their decision." (Source: Letter from Kibarian to Blair, Mar. 4, 1987)
Mar. 6, 1987	Fenwick acknowledges receipt of Kibarian's letter withdrawing membership from NATTS. Fenwick advises that the Culinary School of Washington immediately return the certificate of accreditation and the accreditation plaque. (Source: Letter from Fenwick to Kibarian, Mar. 6, 1987)
May 1, 1987	Memo to Accrediting Commission advising them of the withdrawal of the Culinary School of Washington from accredited list and indicating that the school has been removed from the accredited list, and the appropriate state and Federal agencies have been notified of this action. (Source: Memo from Busey to Accrediting Commission, May 1, 1987)

DISTRICT OF COLUMBIA
CHRONOLOGY OF SIGNIFICANT EVENTS
CONCERNING THE
CULINARY SCHOOL OF WASHINGTON

May 8, 1978	Culinary Institute of Washington is incorporated with Barkev and Mary Ann Kibarian listed on the Board of Directors. (Source: DC Office of Deeds)
May 23, 1978	Culinary Institute of Washington's name is changed to the Culinary College of Washington, listing Barkev Kibarian as President. (Source: Ibid)
1979	Culinary is first licensed by the D.C. Dept. of consumer and Regulatory Affairs. (Source: Statement of D.C. Licensure Comm.)
June 19, 1980	Culinary College of Washington's name is changed to the Culinary School of Washington (CSW), listing Mary Ann Kibarian as President. (Source: D.C. Office of Deeds)
Feb. 11, 1983	CSW submits an application to the D.C. Licensure Comm. requesting permission to confer the Associate of Arts Degree. (Source: Commission memo, Dec. 2, 1984)
June 23, 1983	The Commission issues a provisional license for a period of one year, not to exceed June 30, 1984, to operate a degree credit program without degree-granting authority but subject to a site evaluation within 6 months. (Source: Ibid)
June 11, 1984	CSW requests a 90-day extension of provisional license because the school is moving. (Source: Ibid)
June 21, 1984	Commission grants extension until Sept. 30th. (Source: Ibid)
Aug. 20, 1984	CSW requests another 90-day extension because it hasn't finalized its move. (Source: Ibid)
Aug. 30, 1984	Commission grants extension until Dec. 31st. (Source: Ibid)
Dec. 6, 13, and 22, 23, 1984	Site evaluation occurs to follow up of CSW's request for authority to confer the Associate of Arts degree and to investigate numerous

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	complaints received from 3/84 to 11/84 by the Commission. (Source: Site Evaluation Report)
Feb. 1985	The team reported its findings to the Commission and made the following recommendation: "The school's application for a license to upgrade its offering to an institution granting the associate degree is not recommended at this time for the following reasons: * No current and published catalog. * Inadequate facilities for academic instruction. * No library facility which meets basic library standards for an institution of higher learning. * Weak academic curriculum development. * Inconsistencies in identification and responsibilities of staff and board members. * Complete absence of full-time faculty members. * Rapid turnover of faculty and administrative staff." (Source: Site Evaluation Report, Dec. 6, 13, 22, 23, 1984)
May 9, 1985	Commission notifies CSW of decision not to grant authority to offer Associate of Arts degree and its desire to issue a resolution in support of the school's voluntary withdrawal in order to avoid a formal revocation proceeding. (Source: Letter of Chairman McIntosh, May 9, 1985)
June 12, 1985	At its public meeting, the Commission voted to accept the voluntary surrender of provisional license. (Source: Letter of Executive Director Sims, June 20, 1985)
July 15, 1985	Investigative Report of the Office of Compliance of the Department of Consumer and Regulatory Affairs recommends no further action on 1984 allegations since the main complainant failed or refused to be interviewed and other complainants are out-of-town residents and unavailable for interviews. (Source: Report No. 1475-84)
Mar. 13, 1987	The Chairman of the D.C. Educational Institution Licensure Commission advises the Chief of the Occupational Vocational Eligibility Branch, Division of Eligibility & Certification, U.S.

	Department of Education of his concerns about the Culinary School and forwarded a copy of the 12/84 site survey as well as information that the Veterans Administration is withdrawing authority for the school to participate in veterans benefits. He states that: "The volume and nature of these complaints is unlike any institution licensed by the Commission, and has seriously concerned the Commissioner. At its meeting on Mar. 5, 1987, the Commissioner... asked me to urge you to take whatever corrective actions that are in your power to protect the citizens of the District of Columbia." (Source: Letter D.C. Educational Institution Licensure Commission to Department of Education, Mar. 13, 1987)
Mar. 14, 1988	Dion Henderson, Investigator for the D.C. Office of Compliance, Department of Regulatory Affairs recommends the revocation of CSW's license after investigating eight additional complaints. (Source: Addendum to Investigative Report no. 86-510 & 86-1285, March, 14, 1988)
Jan. 1, 1989	The non-degree licensing function is transferred to the Education Licensure Commission from the Department of Consumer & Regulatory Affairs. (Source: D.C. Reorganization Plan No. 3)
Mar. 22, 1989	Commission initiates investigations of CSW after receiving a series of serious complaints from students, former students and former employees of CSW. (Source: Interviews of Commission staff)
Aug. 21, 1989	Bob Hanrahan, former Congressman and member of the Admissions Department of CSW, writes to Executive Director Stone advising him that Mayor Barry has asked them to perform a special project. He further states: "Our Blue Plains Chef Class has been asked by Mayor Marion Barry to cater a special luncheon function in the Mayor's office on Tuesday, Aug. 29, 1989 at 12 noon. According to Chef Allen this is the second time in one year that the Mayor has asked the Culinary School's Blue Plains Class to cater a mayoral function. I would hope that you and Roger Somerville would be invited guests of Mayor Marion Barry." (Source: Letter from Hanrahan to Stone, Aug. 21, 1989)

Sept. 1, 1989	The school submitted to the Commission an application for renewal of the license for the year Nov. 1, 1989, through Oct. 31, 1990. (Source: Commission Report, Jan. 25, 1990)
Oct. 19, 1989	The Commission considered the application. The Commission authorized a thirty-day extension of the license to permit time for it to act on the complaints. (Source: Commission minutes, Oct. 19, 1989)
Nov. 9, 1989	The Executive Director reported to the Commission that the staff had reviewed the complaints, responses and counter-responses against the school. Due to the volume and nature of the complaints, the staff was unable to make a reliable evaluation. He recommended that the Commission authorize him to engage a site evaluation team of independent experts. Commission agrees with the need for a special site evaluation. (Source: Commission meeting, Nov. 9, 1989)
Nov. 30, 1989	The Commission extended the license of the school once more, until Jan. 31, 1990, in order to provide time for the team to make the site evaluation visit and report its findings and recommendations. (Source: Commission meeting, Nov. 30, 1989)
Dec. 6, 1989	In response to the Executive Director's written request to the school for dates in December for the site evaluation visit Dr. Barkev Kibarian suggested a date in the first week in January. The Commission accepted the suggestion and set Jan. 4-6 as dates for the visit. (Source: Letter from Executive Director Stone to CSW, Dec. 6, 1989)
Dec. 29, 1989	Dr. Kibarian calls Executive Director Stone to suggest that the site evaluation visit be rescheduled, as they were moving the business offices of the school from 1634 Eye Street, N.W., to 3rd and G Streets, N.E., during the following week. The telephone call was the first mention of any plans by the school to move its offices, although discussions of the site visit with the school had been going on since mid-November. (Source: Memo from Executive Director Stone to Julian Sayles, Asst. Corporate Counsel, Jan. 18, 1990)
Dec. 29, 1989	Commission records indicate that, "Inasmuch as evaluation of a school is physically impossible

	when it is packing its records and moving, the Executive Director was forced to cancel the site evaluation visit." (Source: Ibid)
Jan. 3, 1990	The Executive Director informed Dr. Barkev Kibarian that the school had moved its business offices to an unlicensed location, and that the failure to inform the Commission of this move might constitute false and misleading information. (Source: Ibid)
Early Jan., 1990	Commission staff learns that the school's release from its lease at 1634 Eye Street, N.W., was executed on Dec. 18, 1989, and provided for the school to remain at that address until Jan. 31. It appears that the school had begun arranging for its move well before Dec. 18, and that it did not have to move during the week of the scheduled site evaluation visit. It appears probable that the school moved at that time to evade evaluation by the Commission's team. (Source: Interviews with Commission Staff)
Jan. 8, 1990	Washington Post reports that students were being evicted from apartments leased by CSW. (Source: Ibid)
Jan. 10, 1990	ACCET informs the Commission that on Jan. 10, 1990, it issued a show cause order on revoking CSW's accreditation, has scheduled a site visit for Jan. 11/12 and is inviting Commission members to attend. (Source: Interviews with Commission Staff)
Jan. 11, 1990	Attorneys for CSW inform the Executive Director of the filing for bankruptcy under Chapter 11, and claim that the Commission is thereby stayed from all actions against the school. (Source: Commission Report, Jan. 25, 1990)
Jan. 25, 1990	Executive Director recommends to the Licensure Commission that they reject the application of CSW for renewal of its license for license year 1/1/89 through 10/31/90 based on charges that: (1) the school furnished false/misleading information to the Commission concerning its new location and (2) provided false/misleading information to students concerning housing. The Commission agrees. (Source: Commission Meeting minutes)
Jan. 26, 1990	The Commission notifies CSW of its action and the right to request a hearing before them.

	(Source: Letter from Executive Director Stone to Dr. Kibarian, Jan. 26, 1990)
Jan. 28, 1990	Commission sets hearing date for Feb. 28, 1990 at the request of CSW. (Source: Interview with Commission Staff)
Jan. 31, 1990	Bankruptcy Court holds hearing on CSW's petition for a temporary restraining order (TRO) against the Commission and concluded: "... (1) that the bankruptcy filing did not bar the Commission from acting, but (2) since the school would be irreparably harmed if a TRO was not issued, and the District would not be so harmed if it were issued, he issued the TRO stopping the Commission's enforcement of its order for ten days. Subsequently, the school and Commission consented to an extension of TRO to March 12, in order to permit the Commission to hold its hearing on February 28." (Source: Commission Statement)
Feb. 26, 1990	Two days before the new hearing date, CSW's attorneys submit a proposal consent decree which is rejected. A counter proposal is offered and agreed to by the School and the Commission. (Source: Ibid)
Feb. 27, 1990	School and Commission formally execute their agreement which provides for the closure of the school in the manner previously required by the Commission, i.e., immediate cessation of enrolling new students, teach-out of all existing students, closure by June 30 and surrender of student records to the Commission. The Commission agreed to cancel the hearing and extend the school's license to June 30, 1990, solely for purposes of orderly closure. (Source: Agreement of Feb. 27, 1990 and interviews with Commission Staff)
Mar. 1, 1990	D.C. Public School system conducts a safety inspection of CSW's Logan School site and orders them to terminate their use of the facility after finding: * A filthy and unsanitary kitchen and storage room. * A dirty cooking stove and ventilation filters. * No lights over the exhaust hood of the stove.

- Odors in the kitchen caused by sewage in the back-up drains.
- Exposed electrical wires.
- Dirty restrooms.
- No hot water.
- No ventilation in the kitchen.
- Lack of security in the walk-in refrigeration.
- Outdated fire extinguishers.
- Gas odors. (Source: Letter from Deputy Director Hawkins to CSW, Mar. 26, 1990)

June 11, 1990	Teach-out of last students is completed at Chef's Restaurant of Georgetown and student records are transferred to the Commission. (Source: Interviews of Commission Staff)
June, 1990	Catering School requests a 30 day extension of its license. (Source: Ibid)
June 15, 1990	Commission staff notes that CSW's students files are unorganized and incomplete including missing files for some students as well as files for students who were not listed in the master file as attending the school, i.e. the master file listed 3,806 individuals as compared to an estimated total of 10,000 student files. (Source: Letter from Executive Director Stone to CSW's Counsel, June 15, 1990)
June 28, 1990	Commission denies School's request for an extension. (Source: Letter from Executive Director Stone to CSW's Attorneys, June 6, 1990)
June 30, 1990	Culinary School's license expires. (Source: Commission Records)

STATE OF VIRGINIA
CHRONOLOGY OF SIGNIFICANT EVENTS
CONCERNING THE
CULINARY SCHOOL OF WASHINGTON

Feb. 26, 1988	Proprietary School Certificate granted to Culinary School for 11787 Lee Jackson Hwy., Fairfax. (Source: Virginia Board of Education)
May 4, 1988	ACCET approves auxiliary classroom located at 11787 Lee Jackson Hwy (Holiday Inn-Fair Oaks). (Source: 5/4/88 letter of Larry Dodds to Ray Pennel of Culinary School)
Nov. 29, 1989	Culinary applies for Certificate of Authority to transact business in Virginia. (Source: 11/29/89 letter of Lois Hagy)
Dec. 14, 1989	Certificate of Authority to Transact Business in Virginia is granted. (Source: State Corporation Commission)
Jan. 10, 1989	Tentative approval given for an extension classroom at Dulles Airport by Virginia Dept. of Ed. (Source: 1/10/89 ltr from Carol Buchanan to CSW)
Oct. 10, 1989	ACCET approves auxiliary classroom located at the Westpark Inn, McLean, Va. (Source: ltr from ACCET to CSW dated 10/10/89)
June 30, 1989	Proprietary School Certificate reissued to CSW for Holiday Inn-Fair Oaks site. (Source: Va. Board of Education)
Nov. 1989	Culinary School applies for a certificate to operate a school at 5321 Broad St., Richmond, Virginia. (Source: Va. Dept of Education)
Dec. 4, 1989	Evening classes begin at Richmond location even though not licensed by Virginia. (Source: Affidavits of 11 students and memo of Ann Gilliam of 1/3/90)
Dec. 14, 1989	Pre-certification visit by Carol Buchanan of Va. Dept. of Ed. uncovers evidence that advertising/recruiting has already started on site and possibly instruction may also have occurred. (Source: Va. Dept. of Education)
Dec. 19, 1989	Culinary School advised of site visit, warned about recruiting at Richmond site and told that the Department is recommending approval for a license

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	at that site. (Source: 12/19/89 ltr from Carol Buchanan to Culinary School)
Dec. 20, 1989	Bud Sawdy, a recruiter for Culinary calls Charles Finley of the Va. Dept of Ed. and faxes material alleging that Culinary school is illegally operating in Richmond and obtaining Title IV loans for students at an unauthorized site. (Source: Memo of Charles Finley dated 12/22/89)
Dec. 22, 1989	Donald Matthews, an employee of Bud Sawdy, delivers approximately $56,000 of federal student loan checks for students enrolled at the Richmond campus. (Source: Ibid.)
Jan. 2, 1990	Charles Finley, Assoc. Director, Proprietary School Service, Va. Dept. of Ed. advises the Culinary School that he is recommending to the State Board of Education the revocation of their license to operate and denial of application for the Richmond site. (Source: ltr of 1/2/90)
Jan. 4, 1990	The Virginia State Education Assistance Authority (Guarantee Agency) imposes emergency action to suspend Culinary School's participation in Virginia's student loan programs. (Source: ltr of 1/4/90)
Jan. 5, 1990	Surprise visits at the Holiday Inn-Fair Oaks and McClean sites reveal that school is not paying bills to caterer's, landlords, etc. Other complaints were: * Students are being graduated five days early due to the situation at the Holiday Inn-Fair Oaks; * Students indicated that they are in jeopardy of being evicted from their apartments due to the school's non payment of rent; * Students indicated that they have not had access to food for training for approximately two weeks and have no had lunch meals provided as agreed to; * Students indicated that they did not receive certain books and culinary supplies as agreed to and paid for through their student loans and grants; * One student indicated that she had been attending classes with prison work release students and appeared upset by this;

	* Many of the students indicated that they had been "sold a bill of goods" and would never have attended if they had actually known what the program was really like. (Source: Visitation Report of January 8, 1990)
Jan. 10, 1990	School declares bankruptcy. (Source: Bankruptcy Court file number 90-00015)
Jan. 11, 1990	Attorneys for Culinary notify Virginia that the bankruptcy stays any pending regulatory action including a revocation hearing scheduled for January 22nd. (Source: ltr of 1/11/90)
Feb. 12, 1990	Pursuant to an agreement, Culinary School voluntarily withdrew its application for a certificate to operate a proprietary school in Virginia. (Source: correspondence of 2/12/90, 2/16/90 and 2/22/90)

U.S. DEPARTMENT OF VETERANS' AFFAIRS
CHRONOLOGY OF SIGNIFICANT EVENTS
CONCERNING THE
CULINARY SCHOOL OF WASHINGTON

June 27, 1981	Effective date of approval for V.A. benefits. (Source: Interview of Terry Washington, Chief of Field Section for Washington Regional Office)
Aug. 2, 1982	Report of School Visit by Steve Gibson, V.A. Coordinator for D.C. S.A.A. (District of Columbia State Approving Authority) concludes that..."met with Dr. Kibarian. Student records indicate progress, certification/recertification attendance and payment. Toured facilities which were impressive.... With all approval criteria being met, recommendation is for continued approval." (Source: Report of School Visit, dated August 30, 1982)
Oct. 27, 1982	Supervisory visit conducted by Licensing Commission/State Approving Authority based upon complaints by two former students who alleged irregularities concerning the course content, lack of up-to-date equipment and facilities and qualification of certain instructors. (Source: November 11, 1982 letter of Nathanial Sims to Kibarian)
Nov. 3, 1982	Meeting held between Kibarian and V.A. officials to resolve discrepancies including operation of two unapproved facilities. School agrees to address the issues in writing. (Source: Ibid.)
Nov. 5, 1982	Culinary responds in writing. (Source: Ibid.)
Nov. 24, 1982	Licensing Commission requests additional written response contending that November 5th letter only addressed issue of facilities. (Source: Ibid.)
1983	V.A. audits find inadequacies in the school's record keeping with regard to attendance. (Source: Admitted by Culinary School and in its own narrative prepared for April 21, 1986 hearing)
1984	V.A. audit find similar inadequacies. (Source: Ibid.)
Aug. 16, 1985	Notification given to the school and the SAA concerning substantial pattern of overpayments uncovered by V.A.. To date, V.A. had not received acceptable resolution to the discrepancies cited.

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(Source: Memorandum dated October 16, 1985 by James R. Fischl, Veterans Services Officer)

Aug. 27, 1985 V.A. officials met with School officials to insure that they understood what would be considered acceptable corrective measures. On the last day of the period allowed for them to provide the agency with corrective measures to ensure that substantial overpayments are curtailed, the school asked for an additional 60 days to present their resolution...The memorandum states that: "Given the school's past compliance history, we are not encouraged that the school will take adequate corrective action without some further incentive. Additionally, the SAA, which has a horrendous record for resolving discrepancies referred to them, (The issues referred to them from the FY 83 survey are still unresolved), has given no indication that they will be able to adequately resolve the issues referred to them within any reasonable time frame to permit us to justify the continued release of payment to students." (Source: Memorandum dated October 16, 1985 from James R. Fischl, Veterans Services Officer to W. David Smith, Director)

Oct. 18, 1985 Notification given to Kibarian that due to the serious nature of the discrepancies and the lack of assurance that veteran students are not continuing to be overpaid, the V.A. has to deny the request for a continuance and must refer the survey findings to the Committee on Education Allowances with a recommendation to suspend payments to all currently enrolled students. (Source: Correspondence dated October 18, 1985 from David W. Smith, Assistant Director For Director to Dr. Barkev Kibarian)

Dec. 16, 1985 Director W. David Smith of Vet. Admin., concurs with staff recommendation to cancel Committee on Educational Allowance (CEA) hearing scheduled for Dec. 19, 1985 in light of response by school that they have revised their procedures to meet V.A. requirements. (Source: Memorandum of James Fishcl, December 16, 1985)

Dec. 19, 1985 thru
Jan. 21, 1986: A follow-up compliance survey was conducted to determine if the procedures outlined in the school's response to FY '83 and FY '84 reports were adequate. The new report found a substantial pattern of overpayments and noted that:

- Attendance is not recorded for every day of class meetings as shown on the class schedules.

- Based upon the attendance records reviewed from June 1985 to December 1985, it was determined that these records are inadequately prepared, that the methods used in obtaining this information do not provide assurances that this information is valid or accurate.

- There is a wide variance in the total number of hours required to complete the same courses during Semester I of each of these classes. This indicates that students starting on different dates during the month of October 1985 are receiving instruction for the same objective but are required to attend different amounts of time.

- A review of class schedules and a weekly class locator, indicates that an instructor has been assigned classes with overlapping hours of attendance. These two classes overlap by a half an hour on 34 days of class meetings. This scheduling of the instructor's time brings in to question the instructor's ability to provide instruction to both classes for the required number of hours on the days when these classes have overlapping schedules.

- In two of the cases reviewed, school officials failed to notify the V.A. when V.A. beneficiaries terminated or interrupted training.

- A review of school attendance records show that in two of the cases reviewed, classes did not meet on all the scheduled class dates. There was no attendance recorded for those dates, consequently, there also were no absences reported to the Veterans Administration.

- Records show an average overpayment in the amount of $3,901.00 per student being charged for the six month period ending December 1985.

- That report concludes that: "as a result of the aforementioned findings and the school's survey history, the school be referred back to the Committee on Educational Allowances for consideration of withdrawal of the approval."

- In an addendum to that report, it is noted that: "subsequent to our notifying students that payments would be suspended, the V.A. received at least three letters from students expressing their overwhelming pleasure with the school. However, our follow-up with one of these students, disclosed that he was coerced into signing this favorable statement. The student indicated that, in fact, he was very displeased with his treatment and the training provided by the school."

- The report concluded that "this finding indicates that, contrary to assurances given by school officials that they are acting in good faith with the Veterans Administration, they have intentionally taken action which would distort the findings of this survey." (Source: Report of Compliance Survey 1/21/86 and 3/6/86 memorandum to W. David Smith.)

March 3, 1986 Follow-up review disclose a substantial pattern of overpayments. The school's error rate for the six month period (June 1, 1985 - December 31, 1985) was determined to be 83%. (Source: Memorandum dated March 3, 1986 from James R. Fischl, Veterans Services Officer, to W. David Smith, Director)

March 4, 1986 A meeting was held at the Washington Regional Office concerning current investigations being conducted by the Department of Education and the Federal Bureau of Investigation at the Culinary School of Washington. The purpose of this meeting was to compare information obtained during V.A. compliance surveys and a audit review conducted by the Department of Education.

The Department of Education's findings show that Culinary School of Washington owes $323,400.00 in refunds for Pell Grants and Guaranteed Student Loans which were improperly obtained by the school for 308 students beginning in 1981 and continuing to the present. The FBI is currently conducting a criminal investigation of the school's operations. (Source: Addendum to the Report of Compliance Survey dated January 21, 1986)

March 6, 1986 V.A. notifies Kibarian of Survey findings and recommendation that the Committee on Education Allowances convene no later than April 21, 1986 to review these allegations. (Source: Document dated March 6, 1986 from W. David Smith)

April 17,1986 Culinary School and V.A. enter into a settlement which states that:

- Culinary will request voluntary withdrawal of its V.A. approval effective immediately and agree that the earliest possible date for reapproval for V.A. purposes will be January 1, 1987.
- In that regard an onsite review of the school may be made by the State Approving Agency (SAA) to insure that adequate record keeping procedures are in place.
- No stigma will be attached to the voluntary withdrawal of Culinary from the V.A. program, and any reapproval by the V.A. will be based solely on the current approval criteria and conditions at the school in existence at the time of the approval request.
- This settlement agreement shall not constitute an admission of liability or fault on the part of Culinary, or on the part of its agents or employees. (Source: Settlement Agreement Between Veterans Administration and the Culinary School of Washington dated April 17, 1986 and correspondence dated April 17, 1986 from Rebecca L. Burke, Attorney for the Culinary School of Washington, Ltd. to Howard Lem, Esq., Office of District Council, Veterans Administration)

Apr. 21, 1986	Hearing before the Committee cancelled because of the settlement. (Source: Memorandum dated April 22, 1986 from James J. Jensen, Chairman, Committee on Educational Allowances to Director)
Dec. 31, 1986	Culinary School requests re-approval for certification of enrollment of veterans. (Source: Letter dated 12/13/86 from Mary Ann Kibarian to W. David Smith, Director, V.A.)
1987 thru 1988	Numerous correspondence between Culinary and V.A. concerning proper forms and evidence needed for application. No application ever filed. (Source: Files of Dept. of Vet. Affairs)

DEPARTMENT OF EDUCATION
CHRONOLOGY OF SIGNIFICANT EVENTS
CONCERNING THE
CULINARY SCHOOL OF WASHINGTON

May 29, 1984

Investigation initiated based on information that CSW's accountant said other CSW officials allegedly put false information on student aid forms and they do not make correct refunds to students and to student aid bank accounts. (Source: DOE IG May 29, 1984 memo from Ronald Poneranty to Arthur Sinai. Re: Case No. 84-000208)

June 4, 1984

ED IG interview of a former employee of CSW. The former employee stated:

- Refunds of excess financial aid are not given unless a student requests the refund and then it takes two weeks to get the refund.
- Students are often required to sign enrollment agreements that are blank and then are filled out later.
- She was required to witness and sign enrollment agreements as a "Dean" of the school.
- Seventy-five percent of the students drop out of the school before they finish, usually within one month of starting.
- She was required to sign a teacher's name to a diploma when the teacher was absent one day. (Source: ED IG interview by R. Cross, ED IG, Case No. 84-000208)

June 4, 1984

ED IG interview of former employee of CSW who stated:

- Students are admitted to the school without a GED or high school diploma.
- Attendance by students and instructors is very poor.
- Records of student grades are not maintained.
- The school does not have a satisfactory method for assessing a student's progress.

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- The school has an insufficient number of full-time instructors.
- Quality of education at the satellite training facilities is poor.
- Students do not obtain the most fundamental skills required of chef in a working environment.
- The school admits students that are unable to benefit from the instruction. Example: possibly retarded student from Richmond, Virginia.
- Students are admitted to classes so that the classes are profitable to run, not based on the student's entry knowledge. Students have been added to a course when the course is half over. (Source: ED IG interview ED IG, Case No. 84-000208)

July 12, 1984 ED IG review of CSW review by HEAF on June 5 and 6, 1984. Findings are as follows:

1. Majority of student files were missing at least one enrollment agreement and many are missing the school's copy of the GSL application. Academic transcripts were found to be missing.
2. Many student files were missing the Statement of Registration Compliance which must be signed by the student before guaranteed student loan applications are certified.
3. Some students were non-U.S. citizens. Some non-U.S. citizens are not eligible for federal student financial assistance. There was no indication that the school verified these students are eligible to receive a guaranteed student loan.
4. At least one student's loan was certified for attendance between December 5, 1983 and May 19, 1984. The student's last day of attendance was December 2, 1983. The student was given the proceeds of the loan.
5. At least one student had his loan proceeds delivered after he dropped out of school.

6. At least one student was due a tuition refund which was nearly six months late at the time of the review.

7. Errors in completion of the student loan application include:

   a. No estimated financial aid for Pell Grant and VA students.
   b. Loan period on application exceeds graduation date.
   c. Beginning of the loan period does not correspond with the beginning of the established semester.

8. One program is four semesters long. The school academic year is three semesters. When the school processes a second loan for a student who has completed three semesters, they indicate the student is only in the first three semesters not the fourth.

9. The dates of the student loan checks are not recorded when received or when it is delivered to the student.

10. Credit balances are not being delivered to the student.

11. As of January 1, 1984, schools are required by ED to have standards of satisfactory progress, CSW had not developed a standard.

12. CSW had no policy for refunds to Title 14 programs.

13. CSW does not have job placement information in a format available for students to review. (Source: July 12, 1984 letter RE: HEAF review of CSW on June 5 & [illegible] 1984. Case No. 84-000208)

July 18, 1984 — ED IG closed report of investigation. The report states that:

- "allegations of criminal misconduct by officials of the Culinary School of Washington were unsubstantiated." The report also states that "mismanagement was not found." (Source: ED IG closed report dated July 18, 1984, Case No. 84-000208)

April 19, 1985: — The Baltimore Division of the FBI initiated an investigation on April 19, 1985, predicated on information from a confidential and reliable source that:

1. Veteran's monthly attendance reports were falsified so that the school could receive the maximum tuition reimbursement and the Veteran (Student) could receive the maximum living allowance for attending school.
2. CSW was specifically recruiting low income students who never attended CSW or dropped out prior to graduation (CSW courses range from three to sixteen months). These student's unused funds from GSL and Pell grants were kept by CSW allegedly to defraud to U.S. Government.
3. Allegedly Job Corps counselors were receiving kickbacks at a rate of $100.00 per job corps student they "counseled" to attend CSW.

The Department of Education IG investigators concentrated on the 2nd allegation. (Source: FBI Report of Investigation, "Fraud Against the Government" Case file: BA-213 B-25, April 1985)

April 26, 1985 The CSW allegations were referred to the FBI's Washington field office. (Source: Ibid)

April 29, 1985: Kibarian told a government source that:

- the school had worked out a private deal with Job Corps representatives whereby funds are given to them for bringing their students to the school for having them sign up as students.
- CSW covered up the payment by documenting it as a travel expense on the school's books and records, as opposed to a payment to a Job Corps counselor for bringing in students. (Source: IBID)

A former CSW employee related:

- gross revenues from students who actually attend school at approximately 1.5 million dollars.
- Students did not physically attend classes but CSW still received grant and loan money for them.

- Recruiting the students is the number one emphasis at the school.
- The employee was instructed by Dr. Kiberian to change the reports submitted to the VA so that they would be in compliance with the VA's 90% rule. (Source: IBID)

July 26, 1985 ACCET (CNCE) advises Dept. of Ed. of CSW's accreditation to be effective on July 18, 1985 for 1050 Connecticut Ave., N.W., Washington, D.C. (Source: Letter of Larry Dodds dated 7/26/85)

Jan. 6, 1986: The U.S. Department of Education Office of Inspector General (ED OIG), Office of Audit, initiated a review to address allegations received by the ED OIG Hotline concerning irregularities in CSW's administration of Title IV student Financial Assistance programs. The review covered the period July 19, 1982, when the school first eligible for Title IV funds, through December 31, 1985. This review was limited because:

1. CSW did not have written policies or procedures for administering title IV funds;
2. there had been a significant turnover of personnel; and
3. there was no one at CSW to administer the title IV fund programs.

Findings and recommendations of the audit are:

1. CSW failed to make refunds to lenders totalling $262,482 and failed to make other refunds in a timely manner. As a result, the Federal government incurred $39,706 of excess interest and special allowance costs.

Recommendations: CSW refund $262,482 to lenders and $39,706 to Dept of Ed.

2. The Federal government paid $35,507 of excess interest costs to lenders on outstanding loan balances because CSW failed to timely notify lenders and ED of changes in the enrollment status of 374 students.

Recommendation: CSW refund to Dept of ED $35,507.

3. CSW failed to obtain approval from ED or the appropriate guarantee agency for 51 late disbursements of GSLP loan checks. These late disbursements totalled $55,702.

Recommendation: CSW refund $55,702 to lenders.

4. CSW delivered the proceeds of 37 GSLP loans totalling $10,794 to students rather than GSLP lenders after the students' withdrawal dates.

Recommendation: CSW refund $10,794 to lenders.

5. The Federal Government incurred $2,401 of excess interest and special allowance costs because CSW failed to timely return 59 GSLP loan checks totalling $147,286 to lenders when students failed to enroll as expected.

Recommendation: CSW refund $2,401 to Dept of ED.

The report concluded that the CSW did not administer the Title III programs in accordance with Federal regulations. The review disclosed indications of deficiencies in the administration of all Title IV programs which CSW administered. (Source: ED IG Audit report February 1988 from DOE CI file 86-000270)

Jan. 7, 1986: The U.S. Department of Education awarded CSW $205,155 of Pell and SEOG funds. Also, information provided by the Higher Education Assistance Foundation (HEAF), the guarantee agency, disclosed a GSL loan portfolio of about 1300 loans totalling approximately $3,242,437. (Source: May 19, 1986 memo from Mitchell Lane, ED IG audit, to C. Ronald Kimberling, ED Asst Secretary for Post Secondary Education re: OIG ongoing audit from DOE CI file 86-000270)

Jan. 19, 1986 ED IG investigation initiated based on information received from the FBI's Washington field office that:

-- CSW is specifically recruiting low income students who would qualify for Government Student Loan (GSL) and Department of Education's Pell Grants. CSW receives the funds from the aforementioned two sources prior to student commencing education. A material percentage of these students never attend CSW or drop out prior to graduation (CSW courses range from three to sixteen months). These student's unused funds from GSL and Pell Grants are kept by CSW with the intent to defraud the U.S. Government.

(Source: Ed IG criminal investigation Case No. 86-000270)

Jan. 31, 1986: CSW's bank balance for their operating account showed a balance of approximately $74,000. Possibility of the school declaring bankruptcy exists. (Source: IBID)

May 1986: Report by the Department of Education office of Inspector General for audit revealed:

- CSW has failed to make GSL refunds to lenders within 40 days after the date of the student's withdrawal from the school. As of this date, they found 358 instances totalling $349,850 of untimely refunds. Included in these amounts were 37 instances totalling $86,702 for students who never attended the school.
- HEAF performed program reviews in June 1984 and April 1985, and informed CSW on both occasions of not making refunds to lenders. Other significant problems noted by HEAF were loans certified and loan proceeds delivered to students who have withdrawn, no standard for measuring satisfactory progress of its students as of June 1984, and incomplete attendance records.
- CSW apparently failed to notify the lender in 231 instances that students have graduated, withdrawn, or ceased to be enrolled. This deficiency could affect the collectibility of approximately $577,500 of GSL loans.
- CSW does not always return loan checks to lenders within the required 30 days for those students who have not enrolled as expected.
- CSW failed to engage a CPA firm to perform the required student financial assistance audit until we informed them of our audit. (Source: IBID)

June 2, 1986: ED IG interview: Of 40 students that began in another's class, only 3 finished. (Source: ED

IG memo or multiple interviews; Interview of former CSW student, in DOE CI file 86-000270)

June 9, 1986: ED IG Interview: Another student's class started with 20 students and ended up with 6 students. (Source: ED IG memo of multiple interviews of former CSW student, by R. Cross, in DOE CI file 86-000270)

June 12, 1986: ED IG interview: One student class had 37 students to start with and ended up with 12 students. There were reformatory inmates in the class; The food used in the class was of poor quality; there was poor control of the students; there was no equipment to work with. (Source: ED IG memo of interview, of former CSW student, in DOE CI file 86-000270)

June 18, 1986: ED IG interview: Another source worked at CSW from January to June 1986 said Kibarian runs the school from the "quick" buck and never pays for food, supplies, or rent on facilities. (Source: ED IG file memo of interviews of former CSW employees, in DOE CI file 86-000270)

June 19, 1986: ED IG interview:

- A retarded student, applied for student financial aid, but couldn't "hack it." His aid money was covertly returned to the bank and Pell Grant account. Kibarian never wanted aid money returned.
- The accounting method at CSW uses a balance sheet showing a student has incurred the entire cost of the $8,000.00 course, when in reality, the student does not owe the entire amount.
- Moral Kibarian, Barkev's daughter, has GSL's. Repayment of these loans were deferred, because she was supposed to be attending CSW, but she never did attend. (Source: June 19, 1986 ED IG interview of former CSW employees, in DOE CI file 86-000270)

June 19, 1986: ED IG interview of one employee:

- that the school did not keep proper books;
- and that he has seen instances where a student signed the GSL check, the money was placed in CSW's account, the student never

showed up and the money was not refunded. (Source: June 19, 1986 ED IG interview of a former CSW bookkeeper, in DOE CI file 86-000270)

June 19, 1986: ED IG interview of a former financial aid officer at CSW. He said:

- CSW did not have any written procedures for administering the student financial aid programs.
- If an instructor did not tell the CSW office that a student dropped out or never showed-up, no action was taken to refund any tuition money. (Source: June 19, 1986 interview memo, in DOE CI file 86-000270)

July 3, 1986: ED IG interview of another employee:

- Kibarian never wanted a student to go more than one semester.
- That Kibarian instructed every employee not to tell anyone a student never showed up or dropped out.
- Kibarian never gave any tuition money back to banks or students after the students quit and were owed refunds. (Source: July 3, 1986 interview of a former CSW employee, in DOE CI file 86-000270)

July 31, 1986: ED IG interview: William King, former employee, Culinary School of Washington said:

- he stole approximately $6,000.00 from CSW and that Walter Scearcy, another CSW employee stole approximately $12,000.00 through salary advances and check forgery. King said that six months after he arrived at CSW he was trusted enough to sign checks in the school owners name. Given this and Scearcy's position as bookkeeper it was easy to steal the money.
- King said the Kibarian took $13,000.00 in Supplemental Education Opportunity Grants funds into the school's operating account around September 1984 and never disbursed these funds to students. (Source: July 31, 1986 ED IG interview memo, in DOE CI file 86-000270)

Aug. 13, 1986: Miguel de le Cuetara, an attorney representing local Spanish-Americans reported the following:

- CSW has been running classified ads in the major newspapers of Puerto Rico, representing itself as a "university". The ads state that persons can come to Washington, D.C. to study, and promises jobs in the culinary field. The ads state that persons with culinary experience can begin working immediately, making up to $14 per hour. Those with no experience are told that they will receive student aid funds to attend CSW, and that they will be provided apartments in Washington, D.C.
- A number of Puerto Ricans have been recruited by CSW through the ads, many using their life savings in order to come to Washington only to find that the ads are not true. They are not provided jobs, apartments, etc. Some were provided low rent apartments only to be evicted some time later because CSW had not paid the rent. (Source: August 13, 1986 ED IG memo by phone call tc Robert Gray, ED IG, in DOE CI file 86-000270)

Oct. 21, 1986 The regional IG for audit completes their review of an audit report on CSW's SEOG, GSL and Pell grants programs for the two years ending June 30, 1984. The audit was conducted by Hagan Mc Clinlick and Co. of Pittsburgh, Pa.

The findings they reported to the ED IG on January 21, 1986 were:

1. Two student aid reports were missing from the students files.
2. Three of the student files tested showed the refunds due to the Title IV program were not deposited on a timely basis.
3. Of the students files tested in the audit, documentation was not found notifying lenders of a change in the students' enrollment status.
4. Documentation was not found indicating students financial aid status.

5. The withdrawal rate for the school for the award years ended June 30, 1984 and 1983 was 71% and 48% respectively.

In their concluding remarks, the audit report said:

- "The management of the Culinary School of Washington, Ltd. is responsible for establishing and maintaining a system of internal accounting control. In fulfilling this responsibility, estimates and judgements by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles." (Source: October 21, 1986 ED IG letter to Mary Ann Kibarian, and attached report of audit by Hagan Mc Clinlock and Co. CPA., in DOE CI file 86-000270)

Dec. 1986: The IG investigators' analysis of 11,110 bank checks, subpoenaed from CSW and representing six accounts, revealed that Barkev Kibarian, CSW owner, his wife and their three children received 17.3% of the school's gross receipts in 1982; 10.6% in 1983; 11.3% in 1984; 4.9% in 1985; and 6.6% in 1986. (Exhibit FF)

	KIBARIANS	GROSS RECEIPTS
1982	$ 82,712.25	$ 476,123.03
1983	89,958.08	848,740.88
1984	104,855.87	1,238,279.00
1985	133,144.23	2,714,808.00
1986	26,754.43	402,213.32
	(through 4/86)	(through 4/86)

(Source: January 20, 1988 OIG report of investigation, information in report provided pursuant to November 26, 1988 ED IG letter to CSW, in DOE CI file 86-000270)

March 13, 1987: CSW notifies ED that they withdrew its membership from Natts and they remain a member of CNCE. (Source: CSW March 13, 1987 letter to Dept. of ED, in DOE CI file 86-000270)

Dec. 30, 1987: ED IG interview of Walter Johnson Screacy, former CSW employee:

* He took cash to CSW's attorney "Becker" at the request of Barkev Kibarian.

* Kibarian enrolled students at CSW that couldn't benefit from the training.

* Kibarian would not allow instructors to "drop" a student for any reason.

* Kibarian took student financial aid checks for students that stopped attending.

* The Kibarian's made a lot of trips abroad.

* Kibarian paid a chef $300.00 to come in and be a "show piece" when any inspectors or evaluators were around.

* Kibarian paid him $250 - 500.00 per week in cash, "under the table" to avoid IRS.

* Kibarian "paid off" some U.S. Department of Education personnel and D.C. government personnel in order to keep his school open.

* Kibarian had trouble in timely submitting periodic reports to various regulating agencies.

* Kibarian received "kickbacks" from PSI Printing.

* Kibarian had a "currency scam" involving nationals from the countries of Nigeria and Cameroon. (Source: ED IG Dec. 30, 1987 interview memo of Scearcy , in DOE CI file 86-000270)

Jan. 27,1988 Dept. of Education advised CSW that none of its auxiliary classrooms are eligible for the federal student aid program. It references a letter to CSW concerning these auxiliary classrooms dated

	9/4/86 to which they have not yet received a response. (Source: 1/27/88 letter of Lois Moore to Kibarian)
Feb. 29,1988	CSW responds to Dept. of Ed. by stating that they never received the 1986 letter and enclose approval for the auxiliary classrooms from D.C. Licenser and ACCET. CSW also claims that ACCET does not give separate approvals for auxiliary classrooms but includes a blanket approval. (Source: 2/29/88 letter of Melany LaCount to Lois Moore)
Mar. 31, 1988	ED IG Summary of resolution actions re: Audit of Culinary School of Washington number 03-60501, Final Report of February 1988. * The audit recommended recoveries of $409,466 plus an additional $78,910 in recoveries that were not addressed in the audit for a total of $488,367 in recommended recoveries. $36,505 had been previously recovered from CSW. * CSW also was to remit $376,762 in GSL refunds to lenders, of which the final OIG report indicates CSW made $329,000 in refunds. * The remaining $75,100 owed to ED as fines. (Source: Summary of resolution audit, Mar. 31, 1988, No. 03-50501)
May 16, 1988	ACCET advises Dept of Education of the recent approval of the eight auxiliary classrooms. In it Larry Dodds indicates that: * "First, let me assure you that ACCET issued the letter listing the eight auxiliary classrooms as approved locations because it was an accurate portrayal of what really exists and existed at the time of the ACCET (then CNCE) on-site evaluation. The on-site evaluation team actually visited three auxiliary classroom sites as part of the visit, one of which was in the French Embassy." * "Also, since CNCE had limited involvement with schools with Title IV recognition, it was not realized that the accreditation approval needed to list the various sites."

- "In the case of the Culinary School of Washington, Ltd., the fact that they needed CNCE to list the sites never became an issue since they had NATTS accreditation. Had the school not been accredited, this oversight on CNCE's part would have been discovered."

- "The Analytic Self-Evaluation Report (ASER), submitted prior to the on-site visit, listed the external classroom locations. The team visited three: French Embassy, Le Pavillon, and El Palacio."

- "I am puzzled by the in-depth nature of your letter and pursuit by the U.S. Department of Education in what appears to be an easily resolvable and justifiable situation."

- Is there something else in the background about which I need to be apprised? If so, I believe the time has come to share it with me. If not, I have a difficult time trying to understand why there appears to be a "major error" on the part of the school or ACCET."

(N.B. a review of the ASER prepared by CSW at the time of the initial accreditation only lists two of the eight auxiliary sites; the ASCOT Restaurant and Washington Times. There is no indication in the site team report that the French Embassy, Le Pavillion and El Palacio were visited by the site evaluation team. Moreover, they are not included in the new auxiliary site list of 1988.) (Source: May 16, 1988 letter and records)

Oct. 3, 1988: ED IG closed criminal investigation case no. 86-00270. Gave notice that an OIG audit discovered that CSW failed to make guaranteed student loan refunds in the amount of $375,000. Subsequent investigation resulted in a presentation of the case to the AUSA. In the interim period between the OIG audit and August 1988, CSW made $329,000 in refunds to the guarantee agency. After learning of the refunds, the AUSA, who had still not made a decision to either prosecute or decline, advised that criminal intent would be very difficult to prove. As a result, in September 1988, the AUSA was notified that OIG was closing the case. A copy of the report was sent to the IRS at their request.

The report concluded that "an MIR was not prepared since mismanagement was not found." A MIR is a Management Implication Report used by ED IG as an internal memo indicating if the criminal investigation uncovered systemic problems in the target of the investigation, according to ED IF officials. (Source: October 3, 1988 OIG closed report, in DOE CI file 86-000270)

July 17-21, 1989 Program review of CSW among the many findings were:

1. CSW failed to document one students dependency status.
2. CSW released loan proceeds prior to completing verification.
3. CSW improperly or failed to complete verification on three students.
4. CSW failed to obtain financial aid transcripts on two students.
5. CSW failed, on one student, to have documentation of a High School diploma, GED certificate, or having passed an ability test.
6. CSW verification procedures did not comply with regulatory procedures.
7. CSW had a statement from students authorizing it to budget excess funds. The statement did not state it was optional and could be rescinded at any time by the student.
8. CSW had an excess in cash from federal funds on hand. An unspecified fine was proposed on CSW.
9. CSW was not able to document to support amounts on Pell grant documents on April 3, 1989. (Source: Sept. 22, 1989 ED program review letter)

Oct. 20, 1989 CSW response to findings in program review. CSW adequately addressed some findings, said they would forward additional and required information in other areas. (Source: Oct. 20, 1989 letter from CSW to DOE)

Jan. 12, 1990	ED letter responding to CSW Oct. 20, 1989 letter. (See above) CSW had yet to forward the additional information that was required. ED proposed a fine for the excess cash on hand, the amount which would be determined later. (Source: Jan. 12, 1990 letter form DOE to CSW)
Jan. 29, 1990	ED IG interview of the former head chef and academic director: * CSW's root problem is/was their recruiting practices. Students were obtained from homeless shelters, heating grates, the indigent ranks etc. Many were functionally illiterate and had no high school diploma. He heard that some recruiters would take the ability to benefit test for some students. * He would lose two thirds of his classes in the first week. The students usually had no idea how hard you had to work to become a chef. * Federal student financial aid programs were somehow misrepresented to prospective students in order to get them to enroll and then afterward things were not as desirable as the students had planned. * When money was apparently tight, the students would not get their class materials. * The escrow Pell Grant money was used to make the payroll. * Maria Ortega took trips to Europe and deposited as much as $50,000.00 in European bank accounts on behalf of Kibarian. Kibarian fired Ortega for embezzling money from him. (Source: January 29, 1990 interview memo in DOE CI file 86000270)
June 30, 1990	CSW's license expires, Title IV eligibility revoked. (Source: Interview of DOE employees)

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Written Statement
Of
Roger J. Williams, President
Accrediting Council For Continuing Education & Training

Presented To The
Permanent Subcommittee of Investigation
Of The
Committee On
Governmental Affairs
United States Senate

September 13, 1990

Thank you for this opportunity to provide an analysis of the role of accreditation in postsecondary education in general and specifically for private career schools such as those accredited by the Accrediting Council for Continuing Education & Training (ACCET). I have been asked by the subcommittee staff to provide an overview of accreditation, the role it played in a particular case, the Culinary School of Washington, and what steps have or could be taken to avoid a recurrence of its long and painful demise. As is clear now, through the benefit of hindsight, there were a number of early warning signs that foreshadowed the closing of this institution this past June and the outcome gives sad credence to an old saying, "When everyone's in charge, no one's in charge."

BACKGROUND OF PRESENTER

As a point of departure and frame of reference, I offer this perspective as one who has both operated schools and served in various capacities within the framework of accreditation. After nearly five years of teaching and then administering a pilot program at George Washington University under a CETA grant in the mid-70's that sought to establish an innovative approach to paraprofessional training, more commonly referred to as trade or vocational training, I assisted in transferring the programs to a private, non-profit corporation, The Human Resources Research Organization (HumRRO). As the Director of the HumRRO Technical Education Center, I sought and obtained accreditation of this school with the Council for Noncollegiate Continuing Education (now ACCET) in 1981 and in 1985 became accredited by the National Association of Trade and Technical Schools (NATTS), as well. Over the past nine years I served both organizations on numerous occasions as an on-site evaluator and for two years served as a Commissioner on the ACCET Accrediting Commission. After a one-year stint to initiate and develop an affiliated association, the Continuing Education Association, I was asked by the ACCET Board of Trustees to direct preparations for an Interim Report to the Secretary of Education in the development of ACCET's petition for continuation of its recognition. I have served as Acting President since May 9 of this year.

OVERVIEW OF ACCREDITATION

It is therefore not simply the difference in perspective between a regulatee vs. regulator when I state that accreditation is the most cost-effective and reliable system we are ever likely to create for the purpose of assessing and improving the delivery of education and training in this country. At its foundation, built upon consensus standards, periodic self-evaluation and peer review is a bedrock for sound educational administration. This is true for trade and vocational schools, both profit and non-profit, as it is for universities and community colleges. While it is also true that students who do not have proper access to competently delivered education and training, for which they've paid, are the proper basis for our frustration and anger, the majority of good schools and even great schools are wrongfully depicted along with the bad ones. In this atmosphere, the term "for-profit proprietary school" has been tainted and used in the most derogatory sense as a model for corrupted educational values, greed and dishonesty. Amazingly, in a nation that grasps capitalism to its bosom like a patron saint, the very thought of combining education with profit sends many into spasms of moral outrage. We would be better served by focusing on

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the "quick-buck" operators with deep pockets and clever lawyers who have subverted a process originally designed for slower moving targets. And quite frankly, while I would not presume to speak for my colleagues at the other accrediting agencies, I sincerely believe that the accrediting agencies are an invaluable partner in the triad of quality assurance along with the state and federal agencies. While it can be argued that we have dragged our feet on implementing reforms to strengthen the accreditation process, there is no question in my mind that the past year has been a chastening experience for all but the dull-witted and those otherwise immune to moral outrage over the abuses. Change never comes easily and institutional change comes harder still, but with a little bold leadership braced by common sense and the will to make the system work, it will work. Given the marginal state of public education at the elementary and secondary school level over the past two decades and the increasing burden that it now presents to our industries in this decade, we can ill-afford the demise of a private career school sector whose innovations and productivity are, of necessity, honed by competition.

In the current atmosphere, we are forced to defend and support the contributory role of private career schools from a weakened position and on the wrong terms, namely, access to federally guaranteed loans and grants, instead of measurable quality criteria that meet our growing workforce needs. Unfortunately, too many schools have served as willing victims by simply accommodating these wrong terms, using marketing and admissions techniques that are sometimes more clever than sophisticated and often superior to their educational delivery systems. Compounded by the problems of students who have poor learning skills, low self-esteem, counterproductive behavioral patterns and weak financial resources, the results are often seen in media portrayals of human tragedy such as that depicted of the Culinary School of Washington.

CSW CHRONOLOGY AND PROCEDURAL REMEDIES INSTITUTED

Which brings me to the subject at hand: what happened, why did it happen and what can and is being done to prevent it from happening again? I offer the following review in a chronology of documented events that we can find in various memoranda and letters on record since the time of initial application by the Culinary School of Washington in 1985. At the risk of turning hindsight into insight, except for an initial finding by the on-site Examination Team during its June 28-29, 1985, visit that "there is a strong need to improve documentation of financial practices and records, especially in the area of student loans and grants," a lack of follow-up and correspondence is perhaps more telling. The current structure and practice of the Accrediting Commission provide for a standing Financial Review Committee to review all schools reported by the examination Team to have weaknesses in any of the subsections on Standard III - Financial Practices. At the last Commission meeting in August, 1990, half the schools reviewed were referred to the Financial Review Committee. Approximately half (14) of these schools became deferred or denied accreditation where financial practices were cited as an area of weakness.

While the OIG conducted an audit of the program for the period July, 1982, to December, 1985, producing a draft report in May, 1987, and a final version in February, 1988, recommending approximately

$400,000 in refunds, we found no record of this report being disseminated to ACCET for review. Similarly a HEAF Report dated July, 1988, cited serious problems in financial aid administration but there is no record of a copy forwarded to ACCET. In fairness, it should also be noted that until May of 1989, ACCET had no formal written policy dealing with adverse actions by other agencies. A detailed, comprehensive revision to this policy in March, 1990, was approved by the ACCET Accrediting Commission to establish a formal review process for such actions indicated in the OIG and HEAF Reports which are brought to our attention. The Commission would review such documentation and take appropriate action. A formalized channel of regular communications among federal, state, and accrediting agencies would serve the process of periodic review. Toward that end, the Commission established at its August, 1990, meeting that the independent two-year audit of financial aid required by the Higher Education Act be initiated after the first fiscal year of eligibility in order to provide a more timely review during the early stages of participation in the Title IV programs.

In May, 1988, correspondence between the Eligibility Branch and ACCET indicated concerns over auxiliary classrooms at a number of the school's restaurant externship locations. The ACCET response was that they were approved but not cited as such, previously, to the Department. There is no record of a follow-up review by ACCET except by letter to the school dated August 10, 1988, indicating a series of general concerns related to complaints, changes in curricula and management practices at the school. In retrospect, this situation deserved a closer review and certainly if any site was unapproved, a serious investigation and on-site visit would be prompted. Prior to May 1, 1990, ACCET did not require a preliminary on-site visit for newly opened branches and auxiliary classrooms, relying on State approval and a four month follow-up visit. Since that date, a detailed checklist is submitted and reviewed on-site by ACCET staff for all sites involved in Title IV prior to presenting a report to a Subcommittee of the Commission for final review and interim approval. A full team on-site visit is then scheduled approximately four months after interim approval. Only main campus operations are accredited and the extension of that accreditation to an external location carries the responsibility of the main campus to properly supervise these locations. A number of recent cases of concern to the Commission have resulted in "show cause" action against the main campus for failings discovered at a branch. Additionally, the Commission issued a call-for-comment in July, 1990, proposing to limit branches to a maximum of one per year, a practice currently in place at other agencies to provide orderly restraints on this activity.

During the Spring and Summer of 1989, a major surge in complaints from former students and staff were received by ACCET. The complaint procedures prior to May of that year were unwritten, informal and unlogged. The record is, to a large extent, silent beyond correspondence requesting clarification and resolution by the Culinary School of Washington and the school's denials of any wrong-doing. No definitive action can be found in the record until a show cause was issued on January 8, 1990, in response to negative publicity, student complaints and actions taken by VA and DC licensure agencies. In April 1990, the Commission approved a completely revamped complaint policy and procedure; all complaints are processed by a senior staff person, logged and presented to the Commission in an update report at each Commission meeting.

On January 9, 1990, Culinary School of Washington filed a Chapter 11 bankruptcy petition and cancelled the scheduled January 11 visit by an ACCET Examination Team on the day of the visit. ACCET met with counsel and D.C. Education Licensure Commission (ELC) officials to coordinate efforts. The ELC agreed to revoke the license on January 31 but the Bankruptcy Court issued a temporary restraining order to enjoin revocation of this license. On February 27, 1990, the ELC notified ACCET that the Culinary School of Washington had agreed to close with a teach-out agreement culminating in the school's closure by June 30, 1990.

This case begs an obvious question of closure: can it happen again? Unfortunately, any answer but yes would have to be suspect until tested and scrutinized over a timeframe sufficient to measure the impact of recent statutes passed in December, 1989, in the Budget Reconciliation Act (Public Law 101-239), the Department of Education's Default Reduction Initiatives of June 5, 1989 and the various reforms instituted by ACCET and other accrediting agencies over the past year. What can clearly be said with a measure of certainty is that there are far more remedies in place than there are analyses of their combined impact on postsecondary education, particularly shorter term programs of less than a year. If the pendulum swings too far toward an adversarial relationship between the regulatory bodies represented in the triad, we will have undermined the foundation of expertise and leadership needed to support our mutual goal of improving weak schools and closing the bad ones.

RECOMMENDATION: ROLE DEFINITION AND COMMUNICATION

Which brings me to what I and many others believe to be the overriding issue underlying the weaknesses in the system: a lack of clear role definition and communication linkages that keep us informed about essential information. The triad of quality assurance exists in a conceptual void reserved for interesting intellectual constructs that people express when they are not prepared to take a stand. The first step should be taken at the Department of Education's initiative calling for a series of work sessions involving the accrediting agencies, state authorities, guarantee agencies and federal representatives, focused on clarifying the respective roles and, most importantly, agreeing - not regulating or legislating but simply agreeing - to specific information exchanges through memorandums of understanding or similar devices. At the risk of overstating their role, I would include the guarantee agencies because they serve a significant role, that is both sufficiently ill-defined and important enough to make them a member of triad-plus-one or its namesake equivalent. Each of us has an important role and some measure of overlapping responsibility that would better serve the public interest by clearly defining primary and secondary levels of responsibility and sharing related information.

RECOMMENDATION: LAWSUITS AND BANKRUPTCY

The role of accreditation has changed, evolving from a traditional collegial model of interaction to one of a compliance office with an

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increasingly legalistic, albeit educationally focused, underpinning. We are ever more frequently sued over adverse actions of denial or withdrawal of accreditation which in turn drains resources otherwise available to develop and improve the process. Statutory protection or other assistance in such lawsuits resulting from the performance of duties that serve the public interest, would greatly benefit that interest. Increasingly, schools seek the protection of the Bankruptcy Court such that accreditation and its supporting activities are at best in a grey area where the agency is hesitant to do anything for fear of a court citation and fines. A clear expression of congressional intent such that accreditation is exempted from this paralyzing situation, would serve the process.

RECOMMENDATION: TEACH-OUT FUND AND ADMINISTRATION

When a school closes, students are often left at the door with no where to go to complete their training or to obtain a refund. There needs to be a fund, perhaps paid into as an insurance fee per loan, collected from the school by the state guarantee agency. The fund could be administered by an ad hoc task force made up of representatives from the state, accrediting and guarantee agencies.

RECOMMENDATION: GRANTS OVER LOANS

A central focus of any rational discussion on student defaults must also address the obvious shift over the past ten years from grants to loans. At a time when budget deficits loom larger than life, no one expects this situation to change in the near term. However, eventually it must change if we are to address the unbalanced burden on those with the fewest options and opportunities to build a future that serves both, theirs and the nation's needs.

CONCLUSION

Finally, I am left with the observation, long held, that accreditation is a major piece to a complex puzzle; if it didn't exist we would have to invent it to complete the picture. That said, it must be administered at the highest level of integrity in service to the public interest as a true indicator of quality education and training. It has too often been assumed to be the all-encompassing gate keeper when in fact it is part of a complex system that must interact purposefully and clearly for it to work properly. The glare of the spotlight by the media, the Department of Education and the Congress has focused our attention and painfully crystallized a sense of renewed urgency and commitment to making the process work effectively.

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September 28, 1990

Ms. Eleanore J. Hill
Chief Counsel
Permanent Subcommittee On Investigations
U.S. Senate Committee On Governmental Affairs
Washington, DC 20610-6250

Dear Ms. Hill:

This letter is written in response to your query, dated September 20, 1990, posing several questions as a supplement to my recent testimony. I offer the following information and/or analysis in response to each question:

1. Q. Subcommittee staff learned of allegations of embezzlement by Dr. Kibarian from Southeastern University to Mrs. Kibarian as president of the Culinary School. Did ACCET know about these allegations? If not, why not? You accredited them in 1985 about the same time of the stories?

   A. I have found no record of any information related to the allegations of embezzlement by Dr. Kibarian at Southeastern University. Since I am unaware of the details, I am not certain how to respond to the question: why didn't we know? Neither the channels nor protocols for communication between the various agencies are presently definitive nor all inclusive of the types of information represented in this case. In my testimony before the Subcommittee I presented the recommendation for formally establishing these linkages in the belief that it is extremely important to the accreditation process. ACCET has recently established the policy and procedural steps for addressing such information in its Document 48 - Policy On Adverse Actions By Other Agencies. Access to the information incorporated into the policy remains an issue that is not as of yet fully explored much less resolved.

2. Q. Why do we involve accreditation in the Title IV participation process? Isn't it true that the Veterans' Administration doesn't rely on accreditation and hasn't since the 1950s? Aren't we asking you, the accrediting bodies, to essentially be schizophrenic? On the one hand, you make money by accrediting more schools; and we are also asking you to kick a lot of them out.

   A. An argument can, and obviously is being made that accreditation should not be involved in Title IV participation. ACCET is perhaps somewhat unique in that approximately one-half of its accredited institutions do not participate in Title IV programs but seek accreditation as a process for measuring their educational programs against stated standards and as such

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committing to a process of on-going self-improvement and an attestation of that commitment. That said, the process, properly administered, is a sound and effective means for evaluation of the educational quality factors involved in the delivery of this education and training; this is true for both Title IV and non-Title IV eligible institutions. It is not, nor was it ever intended to be, the sole measure of the various administrative practices within the schools, particularly those involved in student financial aid and some aspects of consumer protection such as marketing and recruitment practices. While the standards and policies address some of these aspects of the operation, they are complex issues that require the rigor of auditing and regular monitoring on-site and therefore are more properly within the primary oversight responsibility of the federal and state regulating agencies respectively.

If the point of departure in the argument to remove accreditation as an element of Title IV participation is premised on the belief that an assessment of educational quality is not a central issue in participation, than the argument is sound. It is, however, my belief that quality educational delivery does not inherently follow from measures that simply assure a strict adherence to mechanistic procedures and, in fact, that after the dishonest operations are closed we will still be left with those who are well-intentioned, honestly administered and educationally weak. You can count the books, review impressive faculty credentials, assure that all the facility codes are met and files carefully maintained without discovering the weaknesses in texts, instruction that borders on ineptitude, an environment non-conducive to learning or meticulous documentation of administratively important but educationally irrelevant information. I wish I could honestly say to you that accreditation carried with it an ironclad certification of quality education but I can not in good conscience say this; it is, however, through the establishment of standards and the use of peer-review, a valid process for being able to address these issues and as accreditation is being damned in certain sectors, there are states (Maryland for example) that are currently reviewing the use of accreditation to strengthen the standards in our public school systems.

If the Verteran's Administration is able to sufficiently address the issues to their satisfaction without accreditation then my argument falls flat on the facts. While I operated a school with VA certification (HumRRO Technical Education Center) it was also an accredited institution and I suspect that many, if not most, of the VA approved schools are accredited and therefore benefit without the formal requirement by VA to be so. You

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might do well to inquire about the state approving agencies (such as the District of Columbia) who have been under review themselves by the VA for failure to provide the reliable oversight mandated in their contractual agreements.

On the matter of schizophrenia, my personal affliction aside, I believe that the agencies themselves share a concern about growth. It is true that we earn revenue by the sustaining and processing fees of current members. But ACCET recently instituted a special assessment on its currently accredited members who are participating in Title IV because the administrative overhead attributed to this sector is considerably higher than that for avocational programs. Additionally, ACCET's growth over the past seven years has not simply leveled off but actually declined and the Board of Trustees has given me a clear directive to build a strong foundation, not a mighty edifice. This is not a verbal parry at the issue of growth but a sincere and honest statement of the focus of this agency and if the integrity of the process is to be sustained we must be honest brokers of that process. We "kick a lot of them out" when we find a lot of them in non-compliance and there is increasing evidence of this in recent Commission deliberations. We are also slowed considerably by due process, bankruptcy filing's and law suits, all of which are a drain on our limited resources.

3. Q. Your records reveal that you never did a site visit on any of the auxiliary classrooms that Culinary used? Why not? Even though all of the complaints you received came from these sites, why didn't you ever visit them? Do you now?

A. Our records indicated that your observation is correct and the site visits were not conducted at auxiliary classrooms. Prior to May 1, 1990, the policy on these sites did not mandate such a visit, relying instead on state licensing and the administrative oversight responsibility of the main campus under which these sites were governed. Since that date, all branches and auxiliary classrooms involved in Title IV require preliminary on-site review prior to consideration of approval by the Commission Subcommittee established for this review. A follow-up on-site visit is conducted approximately four months after this and a full review is then conducted by the Accrediting Commission. By both hindsight and foresight these facilities should have been and are being visited.

4. Q. Looking at the letter that Dr. Dodds got from Culinary School on April 28, 1988, and then the response he sent to the Department of Education on May 16, 1988, it appears that Dr.

Dodds was misleading the Department of Education concerning when these sites were accredited. Obviously, Dr. Dodds was wrong when he said that the 1985 site evaluation team had considered Culinary's classrooms at locations that weren't open until 1986 and 1987, wouldn't you agree?

A. My review of the records, which is all I have to go by, indicates that Dr. Dodds asserted that the sites were approved and that three of them had been visited. The Team Report does not explicitly state this and therefore I have no knowledge of the visits actually taking place. Since the only site actually referenced in his letter was at the "French Embassy" as one of the three sites "actually visited", I obviously can not find support for an on-site visit of "eight auxiliary classrooms" during or after the Team visit of July, 1985. As stated earlier, these visits were not mandated at the time of the letter exchanges between Ms. Lois Moore and Dr. Dodds. Since he stated that three auxiliary classrooms were visited and since I find no record of the number of sites open at the time of the visit, I am unable to determine the veracity of his statement to Ms. Moore concerning the eight sites. Certainly it would be wrong to state or infer that locations opened in 1986 and 1987 were reviewed by the site evaluation team, if that is the contention.

5. Q. On June 17, 1989, Dr. Kibarian wrote to Dr. Dodds and indicated that,

> I would like to suggest that we raise a one-million-dollar endowment for CEA/ACCET. This endowment would give a sense of permanency. If this concept would meet the approval of your board, I would be very happy to spearhead the drive and have no doubt that we could raise it within one year....
>
> In the meantime, Ray brought it to my attention that he has requested a letter from you to be sent to Joan Duval. The timing has reached a sense of urgency and I would be grateful if you could sent the letter before the July 4th holiday.
>
> We enjoyed having Tammy with us and since her German is so good she may wish to be with us at the graduation at the embassy.

(*Source*: Letter of June 23, 1989, from Barkev Kibarian to Larry Dodds.)

Did Kibarian raise money for CEA? Did you talk to Dr. Dodds or Dr. Kibarian about this?

A. Dr. kibarian's school was a member of the Continuing Education Association (CEA) and paid annual dues in the amount of $1250. this is the only record I have of his "raising money" for CEA. From January of 1989 to January of 1990 I was the Executive Vice President of CEA, assigned to the Washington Office in which it resided. I have no distinct memory of any discussion with Dr. Kibarian on any subject related to raising money for either CEA or ACCET. Since CEA was underfunded from its inception, it is likely that Dr. Dodds, as president of CEA, and myself discussed raising funds for its operation but the letter referred to in your query does not trigger any recollection on my part. Dr. Kibarian did sponsor a fund raiser for Senator Simon but is was not a CEA function.

6. Q. Subcommittee staff has compiled default statistics for each accrediting agency, including ACCET. ACCET has 14 of its 102 schools participating in GSL programs, in the "million-dollar club", composed of schools having $1 million or more each in default. These schools account for approximately $37 million in default. With the magnitude of damage these schools cause, how can you justify your agencies' positions that problems from a few schools are minor?

A. I take issue with your statement that given "the magnitude of damage these schools cause, how can you justify your agencies; positions that problems from a few schools are minor". Neither those particular words nor any rough approximation of that view have ever been stated or supported by me or this agency. Quite the contrary, I have been an outspoken advocate of sanctions on high default rate schools and with my full support, the ACCET Accrediting Commission passed a resolution at its August, 1990 meeting supporting this position. A call-for-comment is scheduled to be issued next week calling for a variety of policy modifications to address the default problem including requirements for a formal written report addressing the default rate at schools over 40%, an automatic show cause trigger at 50% and a notice of termination of accreditation at 60% unless the rate is decreased.

The issue of defaults is a serious one and as is usually the case, a complex one as well. There is a strong correlation between the social-economic descriptors of the population served and the default rate and this is a reality that can not be dismissed by either the federal government or the schools. As I indicated in my testimony, strong sanctions are appropriate for high default schools but "high default" is not a precise term nor is the data track record sufficiently stabilized to allow a refined analysis for simply invoking sanctions. The Secretary of Education published a set of incremental steps in the default reduction regulations that I believe are an intelligent first pass at this problem. ACCET is the first accrediting agency to establish a policy that recognizes the implications of default within the context of accreditation and while I wish we had done so sooner, we are focused on the problem and working toward solutions.

Poor students are a poor excuse for poor training and we are intent upon seeking a course of action within the accreditation process that doesn't simply close down ever school that opened in the inner city. That appears to be the current trend and the result will fix one problem while creating another, no training in the inner city, for thousands of people who need help and aren't college bound regardless our societal aspirations for them to be so. It is a problem that begs for solutions. We want to be part of the solution. I hope that you will find my response and those from others involved in the Subcommittee's review to be of value in the important task before us.

Sincerely,

Roger J. Williams
President

RJW/ahb

cc: Mr. J. Oliver Crom, Chair, Board of Trustees
Dr. Delores M. Harris, Chair, Accrediting Commission

TESTIMONY OF ROBERT TAYLOR, PH.D., CHAIRMAN, NATTS ACCREDITING COMMISSION

Mr. Chairman and members of the Subcommittee:

I am the Chairman of the Accrediting Commission of the National Association of Trade and Technical Schools (NATTS). I have served as a "public" member on the Commission since June 1987 and was elected Chairman in June of this year. I have over forty years of experience in the field of vocational education. I founded and served as the Executive Director of the National Center for Research in Vocational Education at Ohio State University for 21 years. I have also been a visiting professor or guest lecturer at universities in the United States and abroad and an advisor to Bell and Howell Educational Group, DeVry Corporation, Merrill Publishing Company and ministries of education and labor in twenty-six countries. I retired from Ohio State in 1986 and currently am Chairman of the Commission on Higher Education of the State of New Mexico.

At the outset, it is important to understand the role of the Accrediting Commission within NATTS. Like other trade associations in Washington, NATTS collects and dispenses information of interest to its members, provides a broad range of membership services and represents the members' interests in Congress and before administrative agencies. NATTS, however, is different from most other trade associations in that it sponsors an accrediting commission to establish criteria for evaluating and accrediting trade and technical schools and to determine whether schools that apply to the Commission have met these criteria. The Commission seeks to function as a reliable authority as to the quality of the training offered by the schools that seek NATTS accreditation.

The Commission functions autonomously with respect to accrediting criteria and the evaluation of schools. NATTS's Constitution and Bylaws outline the powers and responsibilities of the Commission and provide that the Commission's exercise of these powers and responsibilities "shall not be subject to review by the Board of Directors" of NATTS. Further, the Commission has control of its own management, administration and personnel. The Board of Directors of NATTS is obliged to provide the Commission with financial resources reasonably necessary to enable the Commission to carry out its functions, and the Board may not approve or disapprove of specific items in the Commission's budget. While the Board of Directors appoints persons to serve on the Commission, only the Commission itself may remove a commissioner from office.

The Accrediting Commission consists of nine members. Five of these members are proprietors or executives of members of NATTS. Four members are persons with an interest and expertise in education and training, but do not own or operate NATTS-accredited schools. These "public" members typically have been engaged in government, industry, post-secondary or vocational education and similar fields. Under the Commission's internal procedures, a "public" member is the Chair of the Commission. All of the members of the Commission are volunteers. I would estimate that a typical commissioner spends six to eight weeks each year on Commission business. I have observed no significant difference between "public" members and school-owner members in the performance of their duties.

The Commission usually meets three times a year to conduct regular business. Each of these meetings lasts a week. The Commission also meets once a year to analyze its operations in depth and plan for the future. At each regular business meeting, 100-150 school actions are considered. Prior to these meetings, the commissioners themselves receive the files of the schools that will be considered and review them. At the meetings, based upon their prior review, the commissioners discuss the school files and reach decisions by majority vote. The Accrediting Commission's exclusive concerns are educational excellence and institutional integrity -- the development of appropriate accrediting standards and the application of those standards to the schools that come before the Commission for accreditation. While the Commission recognizes that accreditation is a prerequisite for eligibility for federal student financial aid, its role is not to enforce federal financial aid regulations. The Commission does not engage in political or lobbying activities. I appear at the invitation of the Subcommittee.

I understand that the Subcommittee has requested information from the Accrediting Commission of NATTS about the Culinary School of Washington (CSW). At my direction, the staff of the Accrediting Commission have reviewed its files and, to the best of our knowledge, the following represents an accurate chronology of events in the history of the Commission's accreditation of CSW:

Initial Accreditation of CSW

1. October 1981 - CSW submits application for accreditation.
2. December 1981 - CSW submits Self-Evaluation Report (SER), an analysis by the school of how well it is meeting its objectives and accrediting criteria.
3. January 1982 - Team visits CSW.
4. February 1982 - Team Summary Report sent to CSW.
5. March 1982 - CSW responds to Team Summary Report.
6. April 1982 - NATTS Accrediting Commission approves CSW's application for accreditation.

Review of CSW's Accreditation

7. May-November 1984 - Accrediting Commission receives complaints concerning CSW.
8. December 1984 - Commission sends team to visit CSW to determine the school's continuing compliance with accrediting standards. Team Summary Report is prepared and sent to school for its response.
9. January 1985 - Accrediting Commission reviews Team Summary Report and school's response, and directs a complete re-evaluation of CSW.
10. February-September 1985 - CSW submits SER. Team visits school and prepares Team Summary Report. CSW responds to team report.

11. October 1985 - Commission votes to revoke CSW's accreditation.

12. January 1986 - CSW appeals Commission's decision to the Commission's Appeals Panel. Appeals Panel remands the matter to the Commission with a recommendation that a complete re-evaluation of the school again be conducted on an expedited basis.

Further Review of CSW

13. April 1986 - Commission reviews and adopts Appeals Panel's recommendations. CSW is to be reviewed again, and the review is to be completed by September 1, 1986 so that the Commission can consider the matter at its October 1986 meeting.

14. August 1986 - CSW submits SER, and team visits school.

15. September 1986 - Team Summary Report sent to school, and CSW requests 90-day extension of time to respond to team report.

16. October 1986 - Executive Committee of Commission grants 30-day extension of time for CSW's response. As a result, the CSW review is moved to the Commission's January 1987 meeting.

17. November 1986 - CSW responds to Team Summary Report in part and raises objections to conduct of team visit.

18. January 1987 - Commission again decides not to continue CSW's accreditation.

19. February 1987 - CSW indicates intention to appeal Commission's decision to Appeals Panel.

20. March 1987 - CSW notifies Commission and association of CSW's withdrawal from NATTS. As a result, CSW's appeal is rendered moot, and the Commission notifies the Department of Education that CSW has been removed from NATTS's list of accredited schools.

An examination of this chronology shows that the Accrediting Commission of NATTS did respond to complaints about CSW and, within the bounds of the Commission's procedures at that time, took action to investigate whether the school was in compliance with the Commission's accrediting standards. The Commission did terminate CSW's accreditation. This decision stood when the school elected not to appeal the Commission's decision further and withdrew from NATTS.

Unquestionably, the Commission's review of the school's ongoing compliance with accrediting standards took time. As I will outline below, the Commission has acted since then to streamline its processes, improve its ability to respond to apparent violations of accrediting standards and strengthen its substantive accrediting standards. At this point, however, I would point out to the Subcommittee two considerations which may account for the length of time involved in the Commission's review of CSW.

First, the Commission is obliged to follow procedures that provide schools with notice of the grounds on which the Commission may take action and an opportunity to respond to allegations of apparent violations of accrediting standards. The simple fact is that when the Commission terminates schools' accreditation, the schools frequently file lawsuits against the Commission and its members to compel the reinstatement of accreditation. For example, since 1988, 10 lawsuits have been filed against the Commission because of its decisions to deny or revoke accreditation. The Commission has vigorously defended these lawsuits with the financial support of NATTS.

The courts have made it clear that the Commission must follow its own procedures and that it must give schools notice and an opportunity to respond before adverse action can be taken against them. Further, many of the Commission's procedures -- such as self-evaluation by the school, on-site review of the school, a report by the on-site review team, basing decisions on published standards and affording appeals procedures -- are mandated by the Department of Education in its regulations. A solid, fact-based case that a school has violated accrediting standards must be developed, and a school must be given the opportunity to address the "charges" against it and the right to a meaningful "second look" through an appeal before its accreditation can be terminated. Otherwise, the courts will not hesitate to undo the actions of an accrediting body like the NATTS Accrediting Commission. Thus, the accreditation process, especially when it involves the withdrawal or termination of accreditation, necessarily takes time.

A review of the available records on CSW indicates that the Commission was evidently concerned to ensure that the appropriate procedures were followed and that the school was given a full and fair opportunity to make its case. The process was complicated because, at various points, the school made allegations that the Commission and its representatives had failed to follow proper procedures or that the process had been flawed in some respect which prejudiced the school's rights. All of these allegations required the Commission to proceed carefully and to ensure that it did follow appropriate procedures in evaluating the school. This necessarily slowed the process. Moreover, the Commission, at that time, was more wary of becoming embroiled in litigation. We have since determined, with the support of NATTS, to defend our accrediting decisions aggressively in the courts.

Second, the Commission's review of CSW occurred at a time when the nature and purpose of accreditation were shifting. As originally conceived, accreditation was a private and voluntary process whose principal purpose was to encourage educational institutions to engage in self-improvement. Indeed, this continues to be a central characteristic of accreditation. Rather than acting as regulators, accrediting bodies seek to assist schools to become better by encouraging them to more sharply define their aims and to assess whether they are achieving those aims. Further, the accrediting body suggests areas of improvement on the basis of schools' self-analysis. Historically, therefore, accreditation has had a supportive function.

In recent years, federal and state governments and society at large have increasingly looked to accreditation as a validation that a school meets certain educational measures and sound school practices. This has led accrediting bodies to heighten the scrutiny of institutions that they accredit and to take stronger and swifter actions against those schools that fall out of compliance with accrediting standards. This shift in emphasis was beginning to occur at the time that the Accrediting Commission was reviewing CSW. Accordingly, the accreditation review of CSW may have been prolonged because the Commission was, to some degree, guided by the traditional philosophy of accreditation that a school should be encouraged and given the opportunity to correct its mistakes.

As indicated above, the Commission has adopted a number of measures in recent years to strengthen its ability to deal with schools that fail to meet accrediting standards. Examples of these measures include:

- Rapid Response Teams - The Commission has developed the concept of rapid response teams. A pool of qualified individuals is available on an ongoing basis who can be quickly assembled within days into a visiting team and sent to schools soon after the Commission is made aware of potential violations of accrediting standards. The

Commission's early experience with the rapid response teams has been encouraging, and we believe that these teams will enable the Commission to get more quickly at problems when they develop.

- Reporting - The Commission has strengthened schools' reporting obligations. Better and more detailed information is now required of schools in the financial reports and annual reports that they are required to submit to the Commission. These reports should give the Commission better warning signals that schools are developing problems that could lead to harm to students.
- Workshops - Both initial and renewal applicants for accreditation are now required to attend workshops prior to the submission of applications. These workshops are aimed at improving schools' understanding of the accreditation process and its procedural requirements. These sessions have helped to lessen delays in the accrediting process because of schools' lack of understanding of how the process works. Further, through self-selection, the workshops help to screen out schools that are not truly serious about applying for accreditation. In 1989, for example, 193 potential applicant schools attended accreditation workshops, but only 70 actually applied.

- Appeal Standards - The Appeals Panel's scope of review of Commission decisions has been narrowed -- appropriately, we believe -- to eliminate the possibility that schools can provide evidence to the Panel that they have not made available to the Commission. The Appeals Panel now determines, based on the original record before the Commission, whether the Commission's action was supported by substantial evidence.

All of the foregoing modifications to the accreditation process are designed to streamline and expedite it. The Commission believes that these measures are succeeding.

The Commission has also amended its Standards of Accreditation to strengthen its ability to deal with schools that fail to deliver what they promise to students. In fact, the Commission has amended its Standards more in the past two years than it had in the previous ten years. Examples of these recent changes include:

- Recruiting Practices - The Commission has imposed new requirements on schools' recruiting practices. Schools may only use employees and not third-party agents, and may not pay commissions for obtaining enrollments until after a student has progressed to a point that gives some realistic assurance that the student will complete the training. The Commission has also prohibited schools from permitting their recruiters to solicit prospective students in or near welfare offices, unemployment lines, food stamp centers and homeless shelters.

- Branches - The Commission has amended its standards on branching to strengthen the parent school's responsibility to control the branch, ensure that a branch is fully reviewed prior to accreditation and require that the branch's programs are the same as or related to programs offered at the parent school.
- Refunds - The Commission has required schools to adopt refund policies more liberal to students. A school may not retain the entire tuition for the program unless the student completes at least 75 per cent of the training.

The Commission believes that these and other measures that it has adopted will enable the Commission to perform the function for accrediting agencies that Congress has established in the federal student financial assistance programs. Accrediting bodies are to serve as a "reliable authority as to the quality of the education or training offered by post-secondary educational institutions within the agency's scope of activity..." This is an important role, but others also have critical roles to play.

Federal policy recognizes a "triad." In order to participate in student financial assistance programs, a school not only must be accredited; it also must be licensed by the states in which it operates and certified by the Department of Education as an eligible institution. Thus, federal and state regulators have important responsibilities in curbing the instances of fraud and abuse which trouble all of us. State and federal regulators have tools available to them which are simply unavailable to accrediting bodies. For example, criminal prosecution for fraud is obviously the province of state attorneys general and the Department of Justice. The Department of Education, moreover, has suspension and termination powers provided by Congress that are unavailable to private accrediting agencies, and these powers have been recently broadened to permit emergency actions to prevent misuse of federal funds. The Commission is unaware that the Department has made any substantial use of these emergency powers.

Based upon my experience in the field of vocational education and as a member of the NATTS Accrediting Commission, I believe that the accrediting process can and does work. Clearly, the process has evolved and improved in response to educational, economic and social changes. While there may be room for additional reforms beyond those that have already occurred, those reforms should not be destructive of the considerable efforts that have been expended and successes that have been achieved to hold schools to high educational standards and to improve the ability of accrediting bodies to enforce those standards. If changes in the process for regulating and supervising the proprietary school field are considered, I would urge you to consider whether the changes are truly necessary and would lead to productive results. Indeed, it is appropriate to ask whether creation of a "new" system for monitoring schools would not, in fact, result in the re-creation of the basic elements of the system that accrediting bodies have developed through years of experience.

In short, I would urge the Committee to work with accrediting bodies like the NATTS Accrediting Commission to continue to improve and refine the process and, in particular, to strengthen the "triad." Specifically, the Commission would be pleased to have Congress' assistance in the following areas:

- Immunity - As I have indicated above, the possibility of legal action by schools exerts a constant pressure on the accrediting process. While it may not be feasible to immunize the accreditation process from all threats of lawsuit, it would be beneficial if commissioners could be immunized from lawsuits in their personal capacities.
- Bankruptcy - Of increasing significance to the Commission is the impact of the federal bankruptcy laws. As matters now stand, some courts have created a "safe harbor" under the bankruptcy laws for schools that file in bankruptcy prior to the withdrawal of accreditation. The NATTS Accrediting Commission believes that these decisions are erroneous and is appealing them. Recognition that the bankruptcy laws present no impediment to the denial or revocation of accreditation would be of substantial assistance.

- Clarify and Strengthen the Triad - As I have noted, the Department of Education, state regulators and private accrediting groups have complementary, yet distinct, roles to play. Candidly, the Department and some state regulators have failed to properly recognize these roles and to adequately fulfill their own roles. For example, the Department has recently asserted a linkage between the default rates of certain schools and the performance of accrediting bodies. However, the Department's own recognition criteria for accrediting bodies make no reference to default rates, and the policing of default rates is clearly an area for federal regulatory enforcement. As an additional example, there must be greater uniformity and rigor by the states in inspecting, licensing and monitoring schools. NATTS's accrediting standards require schools to be properly licensed in the states in which they operate. All too often, the Commission has received contradictory and incorrect information from state regulatory bodies. There is great variation in the degree of state oversight.

On behalf of the Commission, let me express our desire to work constructively with the Congress and the other members of the triad. In our view, the tools are already at hand to hold schools to high standards of educational excellence and institutional integrity. The federal government, the states and private accrediting groups must principally direct their attention to utilizing those tools. Thank you for your attention.

Response from Robert Taylor
Chairman, Accrediting Commission
National Association of Trade and Technical Schools
to
Hearing Follow-Up Questions from Sen. Carl Levin

Q1. Did NATTS officials have any indication of problems or accreditation-related violations at DEI prior to the on-site inspection visit of October 1988, which ultimately resulted in DEI's loss of accreditation? Specifically, what were the problems identified prior to the on-site visit? What actions did NATTS take to respond to these problems? Did NATTS communicate with either the federal Department of Education or the Michigan State Department of Education about these concerns? Please furnish any correspondence reflecting such communications between the period of DEI's last successful accreditation in 1982 and the on-site visit of October 1988.

A1. According to our records, NATTS Commission staff did not receive indications of possible accreditation-related problems at DEI prior to the visit of October 1988. In January 1988, DEI provided NATTS with a Self-Evaluation Report ("SER") as a requisite step in the accreditation renewal process. DEI later provided NATTS with a Supplemental SER, dated September 30, 1988, to address several "major and minor changes" which the school had reportedly undergone in the interim period. As part of the accreditation process, the purpose of the subsequent on-site inspection visit of October 1988 was to verify data in the SERs, seek additional data, and develop an understanding of how well the school was meeting its objectives and NATTS' Standards of Accreditation. No specific problems at DEI were indicated prior to the on-site visit.

Typically, NATTS officials learn of accreditation-related problems at an accredited school through complaints they receive about the school, through notification they receive from State licensing agencies, or through their interaction with the school in the course of performing accrediting activities (e.g., ownership, location, and name changes, as well as the renewal process).

During the period following NATTS' renewal of accreditation in July of 1982 and approval of a change of ownership at DEI in October of that year, NATTS did not receive information regarding accreditation-related problems at DEI. According to our records, no complaints or notices of problems were received in the period before NATTS' recognition of certain separate classroom facilities for DEI in 1986, nor in the months which followed that action. It was DEI's entry into its renewal cycle, as well as coincident requests from the school relating to separate facilities, at the beginning of 1988 which triggered the accrediting procedures that led to NATTS' awareness of accreditation-related violations and,

ultimately, resulted in the Commission's decision to deny renewal of accreditation.

Although the Commission's staff recalls there were telephonic communications between NATTS and the Michigan State Department of Education regarding DEI during the period in question, we have no documentation indicating that these communications, or any communications between NATTS and the federal Department of Education regarding DEI, concerned matters which warranted immediate review of DEI's activities by the Commission.

Q2. What did NATTS tell members of its on-site accreditation team about DEI's accreditation status prior to the inspection? Were any specific problems or concerns discussed with NATTS' on-site team members prior to their visit?

A2. Members of the on-site accreditation team were, of course, informed that the October 1988 visit to DEI was in conjunction with the school's application for renewal of accreditation. The team members would also have received materials relating to the school before the visit.

It is not clear whether any specific problems or concerns were discussed with the on-site team members prior to their visit. It appears, however, that the team developed numerous concerns regarding materials in the SER and the supplement as a result of its visit. As stated in the October 25, 1988 Team Summary Report (a copy of which has already been provided to the Subcommittee):

> "A Self-Evaluation Report supplement [dated September 30, 1988] was given to the team [by the Commission's staff] on the first day of the visit. This supplement provided the team with different responses to twenty-seven of the original sixty-three Self-Evaluation Report questions. The team reviewed the supplement and concerns from both the original SER and the supplement are noted in the Concerns/Potential Problems area of the Team Summary Report."

Q3. A 1989 audit of DEI by the Department of Education's Inspector General covered the period 1984 through mid-1987. This report stated that, among other violations, DEI had conducted courses in ineligible locations; had not had an audit since 1984; did not have an adequate accounting system to properly account for federal funds; had made very few required refunds for students who had dropped out of the school; and had entered into a management contract with an ineligible institution. The Department requested a $10 million dollar refund from DEI.

Were NATTS officials aware of these problems prior to their on-site accreditation? What actions did NATTS take between 1984 and October 1988 to address these identified shortcomings?

A3. As explained in response to the previous questions, our records contain no information indicating that NATTS officials were aware of these problems between 1984 and October 1988. Neither the school nor the U.S. Department of Education informed the Commission of these findings.

However, between October 1988 and March 1989, long before the Inspector General's audit had commenced and the "shortcomings" had been "identified" by anyone, the NATTS Commission worked pursuant to its procedures to swiftly, fairly and effectively hold DEI accountable for violations of NATTS'accreditation standards first identified in the Team Summary Report.

With respect to DEI, the performance of the NATTS Commission, in discovering and addressing problems at the school, was far above that of both the Michigan Department of Education and the U.S. Department of Education.

Q4. Were discussions held or conversations conducted between NATTS officials and former DEI owner and chairman Peter Bercik concerning any violations which might have affected his school's accreditation status with NATTS? When did these meetings or discussions take place? Who at NATTS communicated with Mr. Bercik? What actions did NATTS officials request Mr. Bercik or his subordinates to take to correct accreditation-related violations at anytime during the period 1984 through October 1988?

A4. During the period at issue, the normal contacts incident to the renewal process took place between the school and Commission staff. These concerned scheduling and arrangements for requisite submissions from the school and for the on-site visit.

Q5. Did any NATTS official visit DEI or its off-campus instruction facility during the six-year period between its last successful accreditation in 1982 and the on-site visit of October 1988? Please identify these officials and provide any written trip record of their visit(s) to DEI.

A5. Based upon existing files and the accrediting procedures which were then in effect, it does not appear that any NATTS Commission official visited DEI or its off-campus instruction

facility during that timeframe. Our response to Question 1 explains the absence of visits.

Q6. An official from the Department of Education's Inspector General's (IG) office told my office that NATTS "did not follow its own regulations" with regard to DEI's accreditation violations. This official also asserted that NATTS took no action against DEI until it was forced to by the circumstances of numerous complaints and a pending IG review. How did NATTS' actions in the DEI matter conform to the association's own procedures?

A6. We do not understand how a "pending IG review" which was not "pending" until after the NATTS Commission acted against DEI could have "forced" the NATTS Commission to act. Moreover, since the unnamed official from the IG's office did not offer any specific example, we cannot directly respond to this individual's allegation that the Commission "did not follow its own regulations" with regard to DEI's accreditation violations.

As explained in a chronology which was provided to Mr. Jack Mitchell of your staff and documented in materials which were provided to the Permanent Investigations Subcommittee, the NATTS Commission, in conformance with its own procedures (not the association's procedures), took the following actions with regard to DEI:

January 1988	DEI provided SER to Commission following application for renewal of accreditation
October 1988	DEI provided Supplemental SER to Commission
October 1988	Commission Team On-Site Visit to DEI
October 1988	Team Summary Report provided to Commission and to DEI
December 1988	DEI provided Commission with its response to the Team Summary Report
January 1989	Commission failed to grant renewal of accreditation to DEI, citing: * unsound financial structure * inadequate retention (completion) rate * weaknesses in placement program * violation of refund policy * failure to give timely notice of separate classroom closing

March 1989 DEI appealed denial of accreditation renewal

March 1989 DEI appeal denied by Appeals Panel

When the Commission's failure to grant or renew accreditation is appealed by a school, the NATTS Commission Appeals Panel will review the Commission's procedures, as well as the Commission's application of accrediting standards. In its review of DEI's appeal, the Appeals Panel found no violations of procedure by the Commission.

Q7. A former Michigan state official who has extensive experience with NATTS told my staff that your organization was notably "close-mouthed" and often reluctant to share information with her office, despite the fact that NATTS accredits more schools than any other accrediting organization in Michigan. What does NATTS do to ensure that federal and state education officials obtain the accreditation information they need to protect the interests of both students and the educational organizations overseeing proprietary and vocational schools?

A7. The NATTS Commission staff follows the requirements of the Council on Postsecondary Accreditation ("COPA") and the U.S. Department of Education in responding to requests for school accreditation information. In providing information, the staff acts in conformance with confidentiality obligations imposed by the Commission's Accreditation Standards and Procedures:

> "Data in the Self-Evaluation Report, the Team Summary Report, and the school's responses are confidential and are not shared with the officers of the Association, other Association members, the press, or the public, except as may be required by government regulation."

Since you did not disclose the identity of the "former Michigan state official" or any specific details of how the Commission was supposed to have been "'close-mouthed' and often reluctant to share information with her office," it is difficult to respond directly to her allegations. However, to the extent that Commission staff recall having telephonic communications with officials of the Michigan Department of Education regarding DEI, the recollection is one of receiving contradictory signals from Department officials who declined to give the Commission any written information that the Commission could rely upon to take action against the school.

Q8. In a September 12 New York Times story, NATTS' executive director, Dorothy C. Fenwick, was quoted as saying, "Problem schools are not accredited by NATTS." Yet federal government investigators have informed my staff that there were serious management problems at DEI as early as 1985. Is it NATTS' position that DEI was not a "problem" school prior to the October 1988 accreditation review?

A8. The statement and question which follow the quotation from Dorothy Fenwick reflect a complete misunderstanding of both the quotation and the NATTS Commission's "position" on DEI.

The quotation refers to the overall accreditation policy of the NATTS Commission, which is that a school will not receive NATTS accreditation unless the school can show that it is in compliance with the Commission's Standards of Accreditation and agrees to remain in compliance with those standards throughout its period of accreditation. Thus, to the extent that schools are "problem" schools, i.e., not in compliance with the Commission's Standards of Accreditation, they will not receive NATTS accreditation.

Obviously, there are situations in which a school already accredited by NATTS may become a "problem" school, i.e., engages in violations of NATTS Standards of Accreditation, after it has been accredited. The statement and question which follow the quotation appear to view such situations as cases where "Problem schools are accredited by NATTS." This intepretation, however, is clearly a misguided reading of the Commission's policy and its actions, especially with respect to DEI.

At the time of its renewal of accreditation in July 1982, DEI was in compliance with NATTS Standards of Accreditation and was not a "problem" school. DEI was found to be a "problem" school in October 1988, when the on-site team found evidence that DEI was in violation of the accreditation standards; from that point, the NATTS Commission implemented its process of accreditation review, resulting in the removal of DEI from NATTS' list of accredited schools.

As explained in response to Question 3, the NATTS Commission was not aware "that there were serious management problems at DEI as early as 1985."

However, as also explained in response to Question 3, neither the U.S. Department of Education nor the Michigan Department of Education provided the Commission with information regarding "serious management problems" at DEI which would have warranted accreditation review activity by the Commission during that time period.

Nevertheless, between October 1988 and March 1989, once a fact-based record of evidence had been established, the NATTS

Commission worked pursuant to its procedures to swiftly, fairly and effectively hold DEI accountable for a number of violations of NATTS' accreditation standards.

Q9. At the hearing, Dr. Taylor of NATTS was unable to detail to the Subcommittee your organization's policy regarding whether accreditation applicants are required to notify NATTS in writing if they have been rejected or lost accreditation from any other organization recognized by the federal Department of Education. What is NATTS' policy on such notification?

A9. The present application form for NATTS accreditation requires a school to indicate whether it has been accredited by other accrediting bodies. Currently, when a school applies for accreditation, we survey the applicable state agencies and all accrediting agencies requesting information concerning the school applying for initial accreditation with NATTS.

Response from Robert Taylor
Chairman, Accrediting Commission
National Association of Trade and Technical Schools
to
Hearing Follow-Up Questions from Sen. Sam Nunn
Chairman, Permanent Subcommittee on Investigations
Senate Committee on Governmental Affairs

Q1. Subcommittee staff learned of allegations of embezzlement by Dr. Kibarian from Southeastern University to Mrs. Kibarian as president of the Culinary School. Did ACCET know about these allegations? If not, why not? You accredited them in 1985 about the same time of the stories?

A1. This question appears to have been intended for Roger Williams of ACCET, since it concerns ACCET's knowledge of the allegations regarding Kibarian and ACCET's 1985 accreditation of the Culinary School. The NATTS Accrediting Commission ("NATTS Commission") does not know what or whether ACCET knew about the allegations at that time.

Q2. What were the problems that your site review uncovered about Culinary School in 1984? Weren't there 26 of them? Some sound very serious -- what did you do about them?

A2. The Team Summary Report for the December 4, 1984 site visit to the Culinary School was among the documents that we previously supplied to the Subcommittee. It included a listing of 21 "Concerns/Potential Problems" as follows:

"1) The school is represented in its promotional literature as a credit hour school, however, documents submitted to NATTS specify that the school is on a clock-hour basis.

2) Carl Barbour, a graduate interviewed, stated that tuition for the school's program was increased from $6,000 to $8,000 on 8/1/83. He was, however, told that the cost of the program was $6,000, which he contracted for prior to 8/1/83. While the increase was instituted 8/1/83, there are numerous student files which do not have any enrollment agreements indicative of the cost of the program for documentation for the increase. The enrollment agreement contained no provisions for increasing tuition. A sampling of files following the increase in tuition after 8/1/83 indicates a lack of enrollment agreements. Below are nine (9) student names that fall into the above category of the fifteen files that were reviewed:

Kenneth McDonald	**Angela Harris**
Thomas Mooze	**Kenneth Johnson**
Yolanda Murray	**Billy Stubs**

Paul Slade Christopher Latimer
David Horowitz

In addition, the sampling showed that many students signed enrollment agreements where the total cost of the program was $6,000 prior to the increase of 8/1/83, yet they were required to pay the aforementioned increase.

Finally, the school has not notified either the Veterans, Administration, or the State with regard to the increase.

3) While the school is required to submit Document 5 for separate classroom facilities, those on file in the NATTS office do not match present facilities being used by the school as separate classrooms. Document S-a submitted to NATTS indicates the following separate classrooms which are a matter of record.

A. 2100 Pennsylvania Avenue, Washington, DC 20037
B. 2500 Calvert Street, N.W., Washington, DC
C. 1236 20th Street, N.W., Washington, DC
D. 10 I Street, S.W., Washington, DC

However, the following facilities, all of which hold classes, have not been filed with NATTS pursuant to Document S-a as of 12/4/84.

A. The Abbey Road Facility, 2000 L Street, N.W., Washington, DC.
B. Bojangles, 2100 M Street, N.W., Washington, DC.
C. The National Press Club, 529 14th Street, N.W., Washington, DC.

4) Another facility being used by the school was indicated to be in Glen Echo, Maryland. In addition to there being no approved Document S-a for this facility, there is not documentation to show the facility was within the ten-mile limit for a separate classroom and could have been, in fact, a branch.

5) The main school address which appears to be 1050 Connecticut Avenue, N.W., Washington, DC, only provides administrative and student services for the various separate classrooms. No classes are held at this facility which does not appear consistent with accreditation standards. Further, the location has no capacity to train students.

6) While the Shoreham Hotel indicated by the school, met all necessary health standards, numerous instructors and students complained that renovations and the odor of raw

sewage made learning conditions very difficult and a change was necessary to facilitate more effective instruction.

7) Numerous instructors, administrative, and clerical staff indicated to the visiting team that there has been a high rate of staff turnover.

8) Of the twelve random files selected in 1984, current students nearly all were missing required data such as high school diplomas (ten files), enrollment agreements (six files), and other required documents stated by the school as necessary such as letters from doctors indicating the applicant is in good health (eleven files), letter of acceptance (ten files), etc. Students missing required data stated above were:

Current Students Selected at Random

Pandona Johnson
Wilbert Joynce
Barny Jordan
Tanya Jones
Robert Jones
Jessie Johnson
Kevin P. Joy
John Josephson
Gary V. Jones
Gloria Johnson
Michael Johnson
Michael Jones

The school's catalog noted these items were required for admission:

A sampling of fifteen files from a class starting September 22, 1984, showed eight lacking high school diplomas, four lacking enrollment agreements, twelve lacking a doctor's letter and ten lacked an acceptance letter. These students were:

Class Starting September 22, 1984

Adeian Ashton
Todd Carinci
Deborah Ceuz
Joanne Dillard
David Feister
Sheldon Harrington
Lisa Hervy
Gary McGuinness
Michael Cannon
Carol Cole
Carlyn Davis
Sheldon De Beaux
Leola Gilliam
Marion Hollingsworth
Bertrand Madden

9) The school's catalog is not consistent with Document C-c, items numbered as follows: 5 (nature and level of occupation, 8 (proper description of school facilities), 9 reasonable attendance policy), 10 (definition of credit units), 14 (refund policy), 15 (nature and extent of

placement service), 16 (accurate housing policy), 17 (school calendar indicating beginning and ending dates), and 18 (superlatives and exclusives).

10) The school's enrollment agreement is not consistent with Document C-b - items: A-2 (proper address), A-4 (time in weeks or months), A-6d (compliance with Federal truth-in-lending), A-8 (class schedule), A-11 (refund policy), A-13 (effective date of contract), and A-17 (date of school signature).

11) It was not clear to the visiting team who has ultimate accountability for the files considering that they are spread into three areas -- registrar, accounting, and academic. No one individual would commit to final accountability.

12) School's literature indicates that only high school graduates may be accepted into the program. No statements are made that individuals who are not high school graduates but who would benefit from the training offered may be admitted. However, the visiting team found numerous files of non-high school graduates who not only had been admitted to the program but whose files lacked documentation that they could benefit from the training offered.

13) The school's attendance and tardiness policies do not appear to be educationally sound. No limits are made on tardiness or absenteeism as long as you make up the work. This failure of closure in the above areas causes considerable confusion in determining when students are actually dropped. Many students who have not attended classes for up to three or four months still appear in the active files, thus preventing refunds from being made on a timely basis, etc. The system is inherently defective and requires total organization.

14) Due to the inability of the visiting team to determine when students are dropped or the last date of attendance, it was difficult to determine if refunds are made within thirty days. A sampling of files on dropped students which was supplied from the active files did not have any evidence that refunds had been made within thirty days. The school stated that photostats of recent checks actually sent to banks were being held by the school's accounting firm. A sampling of this deficiency is found in the files of Scott Zurilla, Kim Nguyen, Cleveland Brown, and James Holbrook.

15) Physical facilities provided for the school's various instructional programs described in the promotional literature appear to be misleading. From the Executive Gourmet Chef catalog: "The Culinary School of Washington is housed in a three-story brick building in the Georgetown area of Washington, DC. The multi-purpose building is on seven acres in a campus-like setting amid well-kept laws, shrubs, and trees." Actually, the school is housed in a downtown office building as well as several restaurants located throughout the area. The school literature makes no mention that classes are not held at the main school but at restaurants throughout Washington, DC.

16) Students rosters supplied to the visiting team for the calendar year 1983 indicate a high rate of attrition. However, due to the method used by the school in organizing the student rosters, it was difficult to determine specific completion rates for the various school programs.

17) While the school lists different admissions criteria which must be made for admission into the various programs, no file of students denied admission is maintained.

18) The school apparently does not have complete control of its various facilities previously listed. There are numerous examples documented in the class rosters from calendar year 1983 which indicate that classes were not held -- in one instance Class No. 852283 was not held for one week. Another example was a catering class (for which a class number did not exist) which did not meet for three weeks. This information was provided by an existing catering student.

19) The school did not provide protection of records from fire or other perils.

20) Approximately 50% of the thirty students interviewed at three locations did not know that classes would be held in a variety of restaurants in the Washington metropolitan area. These students specifically stated that these various locations were not mentioned in any of the school literature provided.

21) The school was unable to provide leases which detailed out terms for the use of the various restaurants used as classroom locations. Therefore, the visiting team was not able to validate continuity of future classes to be held."

In addition, the Team Summary Report listed 5 "Other Items" as follows:

"1) A parent of an existing student as well as numerous students presently attending classes stated they expected to receive an Associate Degree upon graduation. While the school has applied for associate degree status with the District of Columbia, however, no approvals presently exist.

2) The school offers a special program called KIDS IN THE KITCHEN (a week-end program for teaching children and teenagers cooking). While this program is not vocational in nature, NATTS has received no information on its existence.

3) Several instructors interviewed at the school's main location, 4470 MacArthur Boulevard, Washington, DC 20007, had not taught at the school for up to a year or longer.

4) There are various references in all of the school's promotional literature to various superlatives such as "best", "first", "only", "top notch", etc. These types of words should not be used in the school's promotional literature.

5) Some instructors expressed concern with regard to the organization and distribution of supplies."

Chronologically, as detailed in my written statement submitted for the hearing record on September 13, 1990, the NATTS Commission and its staff took the following actions after the staff received the Team Summary Report:

December 1984 - Commission sends team to visit CSW to determine the school's continuing compliance with accrediting standards. Team Summary Report is prepared and sent to school for its response.

January 1985 - Accrediting Commission reviews Team Summary Report and school's response, and directs a complete re-evaluation of CSW.

February-September 1985 - CSW submits SER. Team visits school and prepares Team Summary Report. CSW responds to team report.

October 1985 - Commission votes to revoke CSW's accreditation.

January 1986 - CSW appeals Commission's decision to the Commission's Appeals Panel. Appeals Panel remands the matter

to the Commission with a recommendation that a complete re-evaluation of the school again be conducted on an expedited basis.

April 1986 - Commission reviews and adopts Appeals Panel's recommendations. CSW is to be reviewed again, and the review is to be completed by September 1, 1986 so that the Commission can consider the matter at its October 1986 meeting.

August 1986 - CSW submits SER, and team visits school.

September 1986 - Team Summary Report sent to school, and CSW requests 90-day extension of time to respond to team report.

October 1986 - Executive Committee of Commission grants 30-day extension of time for CSW's response. As a result, the CSW review is moved to the Commission's January 1987 meeting.

November 1986 - CSW responds to Team Summary Report in part and raises objections to conduct of team visit.

January 1987 - Commission again decides not to continue CSW's accreditation.

February 1987 - CSW indicates intention to appeal Commission's decision to Appeals Panel.

March 1987 - CSW notifies Commission and association of CSW's withdrawal from NATTS. As a result, CSW's appeal is rendered moot, and the Commission notifies the Department of Education that CSW has been removed from NATTS's list of accredited schools.

Q3. Your December 4, 1984, site team at the Culinary School uncovered the following:

Enrollment agreement includes no provisions for increasing tuition.

While the school is required to submit forms for separate classroom facilities, those on file with NATTS do not match present facilities being used by the school as separate classrooms.

Numerous instructors and students complain that renovations and the odor of raw sewage make learning conditions very difficult at the Shoreham Hotel.

A high rate of staff turnover.

Of 12 random files selected, all are missing required data.

It is unclear to the visiting team who has ultimate accountability for the files.

School's policies on attendance and tardiness do not appear to be educationally sound.

A sampling of files on dropped students does not have any evidence that refunds have been made within 30 days.

Descriptions in promotional literature of physical facilities for the school's various instructional programs appear to be misleading.

Student roster supplied to the visiting team for the calendar year 1983 indicate a high rate of attrition.

Approximately 50 percent of the 30 students interviewed say they did not know that classes would be held in various restaurants in the Washington area.

In light of the seriousness of these allegations, why didn't you move faster with the process? Why didn't you tell the Department of Education about this?

A3. The Commission acted as quickly as it could, pursuant to the procedures which were in effect at that time, to address the allegations against the Culinary School. With the adoption of new and revised procedures to strengthen and streamline the process, the Commission today is able to take fair and effective action in less time than was the case with the Culinary School.

In its response to apparent violations of accrediting standards, the NATTS Commission is legally obliged to follow procedures that provide a school with notice of the grounds upon which the Commission may take action and an opportunity to respond to allegations of such violations.

Many of the Commission's procedures which were implemented in the case of the Culinary School -- such as self-evaluation by the school, on-site review of the school, a report by the on-site review team, making determinations based on published standards, and affording an appeals process -- are mandated by Department of Education regulations. Moreover, the courts have made clear that an accrediting body such as the NATTS Commission must follow its own procedures and must give a school notice and an opportunity to respond before adverse action (e.g., withdrawal of accreditation) can be taken against the school.

Before a school's accreditation can be terminated, a solid, fact-based case regarding the school's violation of accrediting standards must be developed; the school must have an opportunity to respond to the "charges" against it; and, the school must be permitted to seek a meaningful review of the Commission's decision through an established mechanism for appeal. Thus, the process leading to the termination of accreditation necessarily takes time.

In the case of the Culinary School, the NATTS Commission took care to follow the appropriate procedures and to ensure that the school was given a full and fair opportunity to respond to the allegations that it was in violation of accrediting standards. The process was complicated because, at various stages, the school alleged that the Commission and its representatives had failed to follow proper procedures and that the process had been flawed in ways that prejudiced the school's rights. Moreover, the Culinary School received the full benefits of an appeal process which showed in this case that it is not merely a mechanism to "rubber stamp" Commission decisions.

Ultimately, the Commission decided, for a second time, that the Culinary School's accreditation should be terminated. In so doing, the Commission demonstrated that the requisite procedural "due process" for accrediting actions may delay but will not deny effective enforcement of standards.

More recently, the Commission has adopted several measures intended to minimize such delays. As explained in the written statement submitted for the hearing record, the Commission's development of "rapid response teams" for on-site visits; detailed school reporting requirements; mandatory accreditation "workshops;" and, refined appeal standards has been part of its continuing effort to strengthen, streamline, and expedite the accreditation process.

As the second part of this question implies, the Department of Education was not informed about the allegations regarding the Culinary School's failure to comply with accrediting standards while the NATTS Commission's review process was still pending. The primary explanation for this was succinctly stated in the "Policy Statement on Disclosure, Confidentiality and the Integrity of the Accrediting Process" which was adopted by the Board of the Council on Postsecondary Accreditation ("COPA") in October 1984:

> "Concern for the integrity and effectiveness of the investigative and deliberative process involves respect for confidentiality of information required and evaluated. The

> purposes are endangered and the process weakened when disclosure of aspects of the process inhibits both the institution's or program's ability to provide complete information and assess itself candidly and the accrediting body's ability to render sound judgments."

The Accreditation Standards and Procedures of the NATTS Commission, like those of other accrediting bodies, consequently express a policy of confidentiality which recognizes the voluntary nature of the relationship between the schools and the accrediting body. It is intended to promote a forthcoming candor on the part of the schools, the team members, and others who participate in the accreditation process and establish the evidentiary record upon which the Commission bases its accreditation decisions. Thus:

> "Data in the Self-Evaluation Report, the Team Summary Report, and the school's responses are confidential and are not shared with the officers of the Association, other Association members, the press, or the public, except as may be required by government regulation."

However, it is also the policy of the Commission to inform the Department of Education when a school has been removed from the Commission's list of accredited schools. This will occur when the Commission withdraws accreditation from the school or, as in the case of the Culinary School, when a school notifies the Commission that it is giving up its accreditation. While its compliance with accrediting standards was under review, the Culinary School was still on the Commission's list of accredited schools. Moreover, the Commission and its staff were obliged to abide by the above-stated confidentiality policy. But after it was informed that the Culinary School was relinquishing its accreditation rather than pursuing an appeal of the Commission's decision to withdraw accreditation, the Commission gave the Department of Education written notice that the Culinary School had been removed from its list of accredited schools.

Q4. Isn't it true that the process to remove Culinary's accreditation lasted over two years? From December, 1984, to March, 1987? Was that appropriate? Was that very aggressive? You mention that there is a reluctance because of the threat of a lawsuit to remove a school, how many times was NATTS sued during that period 1984-1987 for wrongly removing a school's accreditation?

A4. As explained in response to the previous question, the NATTS Commission was obliged for a number of reasons to follow the procedures that comprised its review of the Culinary School's compliance with accrediting standards. The timeframe between the December 1984 team visit and the Commission's (second) decision in January 1987 to withdraw accreditation was "appropriate," since it was the cumulative result of implementing each of the requisite procedural steps. None of those steps, even from today's hindsight vantage, appear to have been unreasonable or unwarranted under the circumstances prevailing at the time.

With respect to the threat of lawsuits, it was explained in the written statement which I submitted at the hearing that this was a continuing concern of the NATTS Commission and its members.

When the Commission terminates a school's accreditation, it is not unusual for the school to quickly file a lawsuit against the Commission and its members in order to compel the reinstatement of accreditation. During the period of the Culinary School review between December 1984 and March 1987, at least eight such lawsuits were filed. Since 1988, ten lawsuits have been filed against the Commission because of decisions to deny or revoke accreditation.

The Commission has vigorously defended its decisions in these cases with the financial support of NATTS. Although the Commission and its members remain concerned by some of the unsettled questions regarding the potential personal liability of Commission members in such cases, the Commission has not let the threat of lawsuits hinder its enforcement of accrediting standards.

Q5. The correspondence that Culinary School was using from 1985 to 1987 indicated dual accreditation -- it listed both NATTS and ACCET. Didn't this make you suspicious?

A5. Based upon the recollections of staff and the information which is currently available, neither the NATTS Commission nor its staff were at that time aware that the Culinary School had received ACCET accreditation in 1985. At no time did the Culinary School directly inform the Commission or its staff of such accreditation.

The Subcommittee asserts that the "correspondence" used by the Culinary School from 1985 to 1987 "indicated dual accreditation -- it listed both NATTS and ACCET." However, the Commission's files do not contain any letterhead or other documentation from ACCET which provides such indication.

As evidence that the Commission and its staff should have known of the school's dual accreditation, the Subcommittee offers a 1985-1986 Catalogue of the Culinary School which displays the logos and claims accreditation from both NATTS and the Council for Noncollegiate Continuing Education ("CNCE"), the predecessor of ACCET. Although it is not clear why this material apparently went unnoticed at that time, the fact remains that the School took no action to specifically notify NATTS of its other accreditation.

In any event, if the Commission had been aware of the Culinary School's dual accreditation, as the U.S. Department of Education undoubtedly was, the premise of the Subcommittee's question -- that such knowledge should somehow have made the Commission "suspicious" about the school -- is still unclear. The Commission had already begun the process leading to the revocation of the school's accreditation. The Commission suspected that the school was not in compliance with accrediting standards before the school apparently obtained ACCET accreditation.

Q6. Why do we involve accreditation in the Title IV participation process? Isn't it true that the Veterans' Administration doesn't rely on accreditation and hasn't since the 1950s. Aren't we asking you, the accrediting bodies, to essentially be schizophrenic? On the one hand, you make money by accrediting more schools; and we are also asking you to kick a lot of them out.

A6. A succinct explanation of "[w]hy we involve accreditation in the Title IV participation process" was provided for the record in the Subcommittee Staff Statement presented at the September 12, 1990 hearing:

> **The [Higher Education] Act made it a requirement for schools to be accredited in order for their students to qualify for the newly created student financial aid programs. The Department of Education relies upon accrediting agencies to assure "quality education" for Title IV funding because the United States has no Federal ministry of education or other centralized authority exercising single, national control over all educational institutions. The Secretary of Education recognizes and depends on independent accrediting agencies as reliable authorities on the quality of education and training offered by postsecondary institutions. To date, approximately 100 accrediting agencies are recognized by the Secretary. Only those schools**

> accredited by one of the 100 agencies recognized by the Secretary are eligible to receive Title IV funds.

Thus, private accrediting bodies serve, along with State licensing agencies and the Department of Education, as part of the "Triad" which determines the eligibility of postsecondary institutions for participation in Title IV student financial assistance programs.

Presumably, the reason that the Veteran's Administration "doesn't rely on accreditation and hasn't since the 1950s" is that Congress has not established a statutory mandate for such reliance. It should not be assumed, however, that the absence of such a requirement makes the VA approval process for participation in its educational benefits program any more effective or less cumbersome than the Triad appears in the eyes of its critics.

For example, as set forth in the Subcommittee Staff Statement presented at the September 13, 1990 hearing, the "U.S. Department of Veteran's Affairs Chronology of Significant Events Concerning the Culinary School of Washington" indicates that the timeframe and sequence of events for the VA's response to problems at the School was similar to that in which the NATTS Commission acted. Although the VA "started to receive serious complaints" regarding the Culinary School in October 1982, it was not until October 1985 --three full years later -- that "final notification was given to the school that removal action was to be taken." Moreover, after the formal revocation hearing was cancelled on the basis of the School's claim that its procedures had been revised to meet VA requirements, a "follow-up compliance survey" completed by the VA in January 1986 found a "substantial pattern" of overpayments and numerous other alleged violations of VA requirements. Yet, it was not until the School agreed to "request voluntary withdrawal of its VA approval" as part of a settlement with the VA in April 1986 that the School was removed from participation in the benefits program.

As part of the Triad, private accrediting bodies have a distinct role to play. That role requires the NATTS Commission to function independently of the trade association which sponsors it as a reliable authority on the quality of education and training offered by the schools seeking its accreditation.

The Commission, therefore, functions autonomously with respect to its task of establishing criteria for evaluating and accrediting trade and technical schools, and determining whether schools meet such criteria. NATTS's Constitution and

Bylaws outline the powers and responsibilities of the Commission and provide that the Commission's exercise of these "shall not be subject to review by the Board of Directors" of NATTS. Further, the Commission has control of its own management, administration, and personnel. The Board of Directors of NATTS must provide the Commission with financial resources reasonably necessary to enable the Commission to carry out its functions, and the Board may not approve or disapprove of specific items in the Commission's budget.

The notion that accrediting bodies like the NATTS Commission "make money by accrediting more schools" is simply wrong. NATTS is a non-profit organization under the Internal Revenue Code. The Commission's expenses exceed the fees that it charges applicants and accredited schools to defray the costs of accrediting activities. The trade association subsidizes the difference from its members' dues. A school does not have to be a member of the trade association in order to apply for accreditation from the Commission, nor is a school required to become a member of NATTS as a condition of obtaining Commission accreditation. Thus, accrediting more schools does not lead the NATTS Commission to "make money."

Q7. Subcommittee staff has compiled default statistics for each accrediting agency, including ACCET and NATTS. ACCET has 14 of its 102 schools participating in GSL programs, in the "million-dollar club," composed of schools having $1 million or more each in default. These schools account for approximately $37 million in default. NATTS has 45 of its 600 schools participating in GSL programs, in the "million-dollar club." These schools account for approximately $232 million in default. With the magnitude of damage these schools cause, how can you justify your agencies' positions that problems from a few schools are minor?

A7. We have not been provided the Subcommittee staff's compilation of default statistics. Without knowing the sources and methodology used by the staff for its compilation, we cannot (and indeed have not) taken any position regarding them. We would note, however, our concern that the staff's compilation of default statistics for NATTS may be in error if it is in any way based upon the list released by the Department of Education on September 10, 1990 which purports to identify the accreditation status of some 89 schools with high default rates and a high volume of loans in default. That list identifies 29 of the 89 schools as being currently accredited by NATTS. Our own review, however, indicates that the list is outdated and contains mistaken information. For example, 8 of the 29 cited schools are no longer accredited by NATTS.

Q8. You have stated that it is not the responsibility of accrediting agencies to be aware of or concerned with its schools' default rates as reflected in the Department's COHORT default listing and that this is not related to the "quality education" purpose of accrediting agencies. (Do you agree that a high default rate is one factor that could indicate problem schools?) Do you agree that one reason why students default is because they drop out of the courses they are dissatisfied with, perhaps because they do not provide "quality education?" Since it is the duty of accrediting agencies to assure quality education, and lack of quality education can be reflected by the default rate, how can you assert that it is not within your responsibility to be aware of and concerned about a school's default rate?

> **A8. Nowhere in my written statement or oral testimony did I say or suggest that an accrediting agency need not be "aware of or concerned with" its schools' default rates. In my written statement, I questioned the Department's assertion of a linkage between the default rates of certain schools and the performance of accrediting bodies, noting that "the Department's own recognition criteria for accrediting bodies make no reference to default rates, and the policing of default rates is clearly an area for federal regulatory enforcement." During my oral testimony, I responded to a similar assertion from Senator Roth by making the point that "you cannot automatically link default with bad educational performances."**
>
> **Based upon my forty years of experience in the field of vocational education, including my service on the NATTS Commission, I have not found any empirical evidence of correlation between a high default rate at a particular school and the quality of the education or training which the school affords its students. The ability and willingness of students to pay back loans is influenced by many factors. For vocational schools, the high default rate on student loans has been and continues to be largely a function of the social, economic and employment risk characteristics of the population served by such schools.**

Q9. During the hearing, a witness who initially recruited for a NATTS-accredited school stated that after he learned some of the weaknesses in the NATTS oversight system, he went on to purchase three NATTS-accredited schools. Tommy Wayne Downs described his Title IV fraud schemes, which began with his creation of fictitious students at the Guideliners School of Hair Design (formerly Rogers School of Hair Design). Downs chose this school to begin his fraud because he noticed that NATTS was lax in its oversight, including NATTS's failure to perform a site visit when they were notified by the owners of the schools' name change. In Downs' statement, he said:

> After we notified NATTS of the name change, it never exercised its option to do a site visit, as provided for in its procedures regarding such cases. To the best of my recollection, during the more than two years I was associated with this school, NATTS never conducted a site visit to it.

Downs has been convicted of committing fraud at this school and readily admits his guilt.

Downs also cited another sample of lax NATTS oversight at the Pittsburgh Barber School. After Downs purchased the school, he did not specifically mention to NATTS the change of ownership, yet in other NATTS forms, he accurately listed himself as owner. According to Downs, NATTS never picked up on the change and never made a site visit of the school after ownership change.

Regarding a third NATTS school that he owned, the Harrisburg Barber School, Downs was able to get a six-month extension on his scheduled re-accreditation visit. The site visit occurred one year later and ruing the interim time, Downs was able to obtain Title IV funds. When the visit finally took place, Downs was relieved because it turned out to be so easy, saying, "In the first place, none of the members of the NATTS site examination team ever had been to a barber school before and none of them knew anything about cutting hair. Secondly, the team members reviewed files that the school provided them, rather than taking their sample from the files themselves. Thirdly, the team members didn't ask for very much in the way of files to review -- five files of new students, five files from among the most recent graduates, and five files of student that had graduated in the previous six months."

Downs admits that he was committing Title IV fraud at this NATTS school as well as the Guideliners school.

Have you made any changes in the quantity and quality of NATTS site examinations since the instances cited by Mr. Downs?

A9. The Subcommittee's question regarding the activities of Tommy Wayne Downs is replete with factual inaccuracies.

Most importantly, I want to make it clear to the Subcommittee that Mr. Downs was never the owner or purchaser of record of any NATTS-accredited school. Documentation in the files of the NATTS Commission, confirmed by the Pennsylvania State Board of Barber Examiners in September of this year, indicates that the Harrisburg Barber School was owned first by David and Katherine Daniel through their wholly-owned corporation "Danielle Limited," and subsequently by Kathleen

H. Downs through her purchase of stock in Danielle Limited. Similarly, throughout the period of NATTS accreditation, Kathleen H. Downs was the owner of record for the Pittsburgh Barber School. As for the Guideliners School of Hair Design, originally owned by Roger Scruggs and called "Roger's School of Hair Design," this school changed names when it was purchased by Paul Derryberry, who subsequently hired Tommy Wayne Downs as a recruiter in January 1986 and kept him on as an independent contractor until discovery of Mr. Downs' criminal activities in April 1987. All three of these schools were at one time accredited by NATTS, but not one of them was owned or purchased by Tommy Wayne Downs, according to licensing and accreditation records.

As with his status as an owner, the account given by Mr. Downs of the NATTS site examination to the Harrisburg Barber School simply does not square with the facts. Far from being "so easy" for the school, the visit resulted in the school's receipt of a Team Summary Report which cited 14 "concerns or potential problems" warranting "immediate attention." NATTS Commission staff requested a response from the school by February 15, 1989 and noted that the school's application for renewal of accreditation would be considered at the Commission's June 1989 meeting. However, the staff subsequently received notification from the Pennsylvania State Board of Barber Examiners that the school had ceased operation effective January 16, 1989 -- just six days after the Team Summary Report was sent to the school. Shortly thereafter, the school was removed from the list of accredited schools.

Mr. Downs was correct in noting that the change of ownership at the Pittsburgh Barber School did not precipitate a NATTS site examination. However, the Subcommittee should be aware that the NATTS procedures were revised in October 1988 with respect to schools which report a change of ownership. As a result of the revision, a change of ownership now automatically requires a total re-evaluation of the school unless it is already in the renewal process. The new owners are required to attend an Accreditation Workshop, prepare a Self-Evaluation Report, and have an on-site evaluation by a full team consisting of: a Team Leader/Management Specialist, an Education Specialist, Commission Representative, and a Subject Specialist (optional). Subject Specialists may be used if the staff determines that surveys of ten percent or more of the reported graduates and employers indicate concerns regarding the level of satisfaction with and quality of the training received. In addition, it is a routine practice to invite a representative from an appropriate State agency to participate in the site visit.

Please see Attachment.

Q10. The fraud at these schools was eventually detected, but it had nothing to do with NATTS oversight, or any other triad participant. How do you account for these schools slipping through the NATTS oversight system?

> **A10. We do not accept the premise that "these schools slipp[ed] through the NATTS oversight system." Insofar as there were ongoing accrediting activities, NATTS procedures were followed as mandated.**
>
> **However, the Subcommittee must understand that private accrediting bodies such as the NATTS Commission are concerned with institutional integrity as it affects educational quality. The detection and prevention of felonious criminal fraud against the federal student loan program, as perpetrated by Tommy Wayne Downs and his ilk, are responsibilities of Federal and State law enforcement authorities, not private accrediting bodies.**

Q11. In your application, is a school asked if its accreditation has been rejected, denied, or withdrawn from another accrediting agency?

> **A11. The present application form for NATTS accreditation requires a school to indicate whether it has been accredited by other accrediting bodies. Currently, when a school applies for accreditation, we survey the applicable state agencies and all accrediting agencies requesting information concerning the school applying for initial accreditation with NATTS.**

Q12. Does Federal precedent exist that would give accrediting agency commission members immunity from legal actions which schools consequently might take against them for adverse actions taken against those schools?

> **A12. Our preliminary research indicates that there is no existing Federal precedent that would give accrediting agency commission members immunity from legal actions which schools consequently might take against them for adverse actions taken against those schools. However, it appears that Federal statutory protections for private professional review entities in the health care field are based upon analogous policy considerations which would justify their serving as a model for the enactment of immunity provisions applicable to the field of educational institution accreditation.**
>
> **For example, in 1972, when Congress became concerned that rapidly rising costs of Medicare and Medicaid programs were partly due to unnecessary use of medical services requiring reimbursement under these programs, it created the**

Professional Standards Review Organization ("PSRO") program. 42 U.S.C. Section 1320c et seq. The PSRO program consists of a system of peer review in which nonprofit physician membership organizations and other private "qualified organizations" enter into an agreement with the Secretary of Health and Human Services to review the appropriateness, medical necessity and quality of health care services paid for under the Medicare and Medicaid programs. In general, the PSRO for a particular locale will collect and analyze patient, practitioner, and provider data to determine whether health care services furnished to individuals are or were medically necessary, consistent in quality with recognized standards, and could have been more appropriately rendered in another less expensive manner.

When it established the PSRO program, Congress provided explicit statutory immunity from civil liability for PSRO employees and those having a fiduciary relationship to the PSRO in the performance of any duty, function, or activity within the mandate of the PSRO. Id. at Section 1320c-6(b). In addition, it provided the same immunity from civil liability for those who provide information to a PSRO that is related to the entity's performance of its contractual responsibilities.

Similarly, in the Health Care Quality Improvement Act of 1986, as amended, Congress established a limitation on civil liability for actions taken by professional review bodies concerning the competence or professional conduct of individual physicians. 42 U.S.C. Section 1111. When such bodies (which may include the American Medical Association, group medical programs, HMOs, hospitals, or other private "health care entities"), or their component committees or staff, engage in professional review actions regarding an individual physician's competence or conduct which may adversely affect the health or welfare of patients, or the physician's clinical privileges or membership in a professional medical society, the body, any member of its staff, any person under contract or formal agreement with the body, or any person who participates with or assists the body regarding such action may not be held liable for damages under any Federal, State, or local law (excluding Federal civil rights and antitrust statutes). Id. at Section 1111(a)(1). Similar protection from damages is afforded to persons who provide information to such bodies, absent fraud. Id. at Section 1111(a)(2).

According to the legislative history of these provisions, Congress recognized that conferral of immunity was essential to encourage the medical profession's cooperation with the peer review system. As long as the reviewing bodies act in accordance with the standards enunciated in the statute, they are protected from damages sought by a disciplined physician. H.R.Rep.No. 903, 99th Cong., 2d Sess. 3 (1986). "Doctors who are sufficiently fearful of the threat of litigation will simply not do meaningful peer review. The result would be to continue the possibilities for abuse by bad doctors." Id.

Q13. How much money does NATTS spend annually on insurance premiums to protect the Commission?

A13. As explained to John Sopko, the Subcommittee's Deputy Chief Counsel, in a September 28, 1990 letter accompanying the corrected transcript of my testimony, NATTS is concerned that the publication of specific dollar amounts regarding judgment liability insurance for members of the Commission will serve as a "red flag" to schools and encourage harassment litigation with the hope of obtaining a monetary settlement. We would be happy to provide the Subcommittee with information regarding annual insurance premiums upon assurance that such information will remain confidential and will not become a part of the public record of the hearing.

ATTACHMENT to A9

In response to a question from the Chairman during the hearing, I agreed that I would furnish for the record a list of schools which were visited during the past fiscal year. That list is as follows:

SCHEDULE OF VISITS

JUNE 1990

5/31-6/1	Roffler Technical Institute, Pensacola, Florida
6/11-12	International Dealers School, Las Vegas, Nevada
6/21-22	Philadelphia Wireless Technical Institute, Philadelphia, PA
6/6-7	New England Hair Academy, Malden, Massachusetts
6/11-2	Career Centers of Texas, Austin, Texas
6/12-3	NEC-Bryman Campus, Long Beach, California
6/13-4	Education Dynamics Institute, Las Vegas, Nevada
6/14-5	Concorde Career Institute, San Bernardino, California
6/18-9	Nielson Electronics Institute, Charleston, S. Carolina
6/19-20	Liceo D'Artes y Disenos, Caguas, Puerto Rico
6/19-20	Travel Education Center, Cambridge, Massachusetts
6/20-1	Ross Technical Institute, W. Palm Beach, Florida
6/21	Travel Education Center, Nashua, New Hampshire
6/21-2	Polytechnical College, Caguas, Puerto Rico
6/25-6	Ponce College of Technology, Ponce, Puerto Rico
6/26-7	New Careers of Charleston, Charleston, West Virginia
6/26-7	Phoenix Institute of Technology, Phoenix, Arizona
6/28-9	Refrigeration School, Phoenix, Arizona
6/28-9	PSI Institute, Silver Spring, Maryland
6/28-9	Star Technical Institute, Somerdale, New Jersey
6/28-9	Travel School of America, Boston, Massachusetts
6/28-9	Indiana Barber Stylist College, Indianapolis, Indiana
6/6-7	Missouri Nebraska Express Driver Training, Joplin, Missouri
6/27-28	East-West College of the Healing Arts, Portland, Oregon
6/21-22	Love Aviation Training Center, Dallas, Texas
6/4-5	Northwestern Electronics Institute, Minneapolis, Minnesota
6/25-26	Oregon Polytechnic Institute, Portland, Oregon
6/27-28	Academia Bermudez y Rios, Bayamon, Puerto Rico
6/14-15	Wyoming Technical Institute, Laramie, Wyoming
6/18-19	Empire Business College, Ft. Collins, Colorado
6/19-20	New Castle School of Trades, Pulaski, Pennsylvania

MAY 1990

4/30-5/1	Liceo De Arte Tecnolgia, Hato Rey, Puerto Rico
4/30-5/1	Golden State School, Oxnard, California
5/1-2	Barclay Career School, Norfolk, Virginia
5/2	Golden State School, Chatsworth, California
5/2-3	Instituto de Arte Moderno, Carolina, Puerto Rico
5/3-4	ECPI Computer Institute, Virginia Beach, Virginia
5/3-4	Institute of Security and Technology, Pittsburgh, PA

5/14-15	NEC-Bryman Campus, Los Angeles, California
5/16-17	Academy Pacific Bus./Travel School, Hollywood, California
5/17	Billings School of Barbering, Billings, Montana
5/17-18	Unified Schools of America, Los Angeles, California
5/22-23	ETI Technical College, Cleveland, Ohio
5/22-23	NEC-Bryman Campus, Torrance, California
5/24-25	Cleveland Machining Institute, Cleveland, Ohio
5/24-25	Divers Institute of Technology, Seattle, Washington
5/24-25	Barclay Career School, Jacksonville, Florida
5/31-6/1	Hamilton Technical College, Davenport, Iowa
5/7-8	Academia LaDanza, Ponce, Puerto Rico
5/14-15	Academy of Professions, Stockton, California
5/16-17	Lindan Vocational Institute, Salinas, CA
5/16	Lindan Vocational Institute, Fresno, CA
5/15	Bill Allen's Pocono Institute of Taxidermy, Whitchaven, PA
5/15-16	Fox Travel School, Seattle, Washington
5/21-22	Central CA School, Fresno, California

APRIL 1990

4/4-5	Metro Business Academy, Amarillo, Texas
4/5-6	Lexington Electronics Institute, Lexington, Kentucky
4/11-12	Career Development Institute, Denver, Colorado
4/17-8	Barclay Career School, E. Orange, New Jersey
4/17-18	Denver Paralegal Institute, Denver, Colorado
4/17-18	Bryman School, Phoenix, Arizona
4/19-20	Colorado College of Med/Dental Careers, Denver, Colorado
4/23-24	New England Tractor Trailer School, Baltimore, Maryland
4/24-25	Dunwoody Institute, Minneapolis, Minnesota
4/24-5	Flint Institute of Barbering, Flint, Michigan
4/24-25	ITT Technical Institute, Nashville, Tennessee
4/25-26	Lincoln Technical Institute, Baltimore, Maryland
4/26-27	Court Reporting Institute of Tennessee, Nashville, TN
4/26-27	Concorde Career Institute, Minneapolis, Minnesota
4/25	Capitol City Barber College, Denver, Colorado
4/26	Capitol City Barber College, Colorado Springs, Colorado
4/27	Capitol City Barber College, Pueblo, Colorado
4/26	Academy of Professional Barber Stylists, Wheaton, Maryland
4/17-18	Valley College of Medical/Dental Careers, Hollywood, CA
4/16-17	Dr. Welbes' College of Massage Therapy, Omaha, Nebraska
4/23-24	Mr. Joseph School of Cosmotology, Ocala, Florida
4/17-18	Cleveland Institute Dental Medical Assistants, Cleveland, OH
4/19-20	Cleveland Institute Dental Medical Assistants, Mentor, Ohio
4/24-25	American Truck Driving School, Coldwater, Michigan
4/4-5	Technology Education Center, Whitehall, Ohio
4/6	Columbus Paraprofessional Institute, Columbus, Ohio

MARCH 1990

3/22-23	ITT Technical Institute, Ft. Wayne, Indiana
3/1-2	SST Travel School, Portland, Oregon
3/29-30	DeVry Institute of Technology, City of Industry, CA
3/8-9	RETS Electronic School, Boston, Massachusetts
3/8-9	Academy of Art College, San Francisco, California
3/12-13	CHI Institute, Southhampton, Pennsylvania
3/12-13	Lakeland Medical-Dental Academy, Minneapolis, Minnesota
3/14-15	Minneapolis Drafting School, Minneapolis, Minnesota
3/15-16	Cashier Training Institute, New York, New York
3/15-16	Edison Technical College, Carson, California
3/15-16	Black World College of Hair Design, Charlotte, North Carolina
3/15-16	Western School of Health Business Centers, Monroeville, PA
3/22-23	National Career Education, Citrus Heights, California
3/27-28	International Dealers School, Bell Gardens, California
3/29-30	Allstate Hairstyling and Barber College, Cleveland, Ohio
3/8-9	Electronic Servicing Institute, Southfield, Michigan
3/27-28	National Tractor Trailer School, Blasdell, New York
3/29-30	National Education Center-Anaheim, California
3/8-9	Polytechnic Institute, Houston, Texas
3/15-16	Oregon Denturist College, Milwaukee, Oregon
3/19-20	NY Technical Institute of Hawaii, Honolulu, Hawaii
3/14	Alabama State College of Barber Styling, Birmingham, Alabama
3/15-16	Arkansas College of Barbering + Hair Design, N. Little Rock, AR
3/27-28	CT Center for Massage Therapy, Newington, Connecticut
3/29-30	Western Culinary Institute, Portland, Oregon
3/21-22	Travel Institute of the Pacific, Honolulu, Hawaii
3/26-27	Cleveland Institute of Technology, Independence, Ohio
3/20-21	Mr. J's Hair Academy, Gary and Indianapolis, Indiana
3/29-30	West Texas Barber Styling College, Amarillo, Texas

FEBRUARY 1990

2/5-6	Technical Training Center, San Jose, California
2/5-6	Academia Singer, Ponce, Puerto Rico
2/6-7	Tulsa Barber School, Tulsa, Oklahoma
2/7-8	Associated Technical College, San Diego, California
2/7-8	Bayamon Technical College, Bayamon, Puerto Rico
2/8-9	Jos. Donahue Int'l School of Hairstyling, Philadelphia, PA
2/8-9	Oklahoma Institute of Hair Design, Oklahoma City, Oklahoma
2/13-14	ITT Technical Institute, Aurora, Colorado
2/15-16	State Barber/Styling College, Boise, Idaho
2/19-20	National Broadcast School, Sacramento, California
2/20-21	NEC-Bryman Campus, Houston, Texas
2/20-21	Nashville Auto Diesel College, Nashville, Tennessee
2/15-16	Keiser College of Technology, Melbourne, Florida
2/22-23	Unified Schools of America, Santa Ana, California
2/22-23	Roffler Hair Design College, Houston, Texas
2/22-23	New York School of Dog Grooming, New York, New York

2/27	Nebraska Custom Diesel Driver Training, Omaha, Nebraska
2/27-28	Specs Howard School of Broadcast, Southfield, Michigan
2/27-28	ITT Technical Institute, Boise, Idaho
2/15-16	Potomac Academy of Hair Design, Manassas, Virginia
2/6-7	Colorado School of Travel, Lakewood, Colorado

JANUARY 1990

1/4-5	Edison Technical College, Northridge, California
1/9-10	Ross Medical Education Center, Roosevelt Park, Michigan
1/10-11	PJA School, Upper Darby, Pennsylvania
1/11-12	Detroit Institute of Aeronautics, Ypsilanti, Michigan
1/11-12	Chauffeur's Training School, Grand Blanc, Michigan
1/11-12	Total Technical Institute, Norcross, Georgia
1/23-24	Automotive Transmission School, Hialeah, Florida
1/23-24	Career Training Institute, Orlando, Florida
1/25	Career Training Institute, Leesburg, Florida
1/25-26	Roffler Hair Design College, Miami, Florida
1/30-31	Weldor Training & Testing Institute, Allentown, Pennsylvania
1/30-31	Vocational Training Center (Lindell Blvd), St. Louis, MO
1/25-26	Gemological Institute of America, New York, New York
1/11-12	New School of Architecture, San Diego, California
1/8-9	Pacific Coast College, Chula Vista, California
1/18-19	Vegas Dealing School, Las Vegas, Nevada

DECEMBER 1989

12/4-5	Professional Truck Driver School, Little Rock, Arkansas
12/5-6	Ohio Auto/Diesel Technical Institute, Cleveland, Ohio
12/5-6	Hallmark Institute of Technology, San Antonio, Texas
12/6-7	Missouri Technical School, Bridgeton, Missouri
12/7-8	Lansing Computer Institute, Lansing, Michigan
12/7-8	American Bartenders School, Westminster, California
12/11-12	Platt College, Tulsa, Oklahoma
12/12-13	RETS Tech Center, Columbus, Ohio
12/12-13	National Career Institute, Tampa, Florida
12/14-15	NEC-Tampa Technical Institute, Tampa, Florida
12/18-19	National Career Academy, Silver Spring, Maryland
12/5-6	Platt College, San Diego, California
12/20	United Institute of Technology, Clearwater, Florida
12/4-5	MTA School, Corona, California
12/7-8	KY Polytech Institute, Louisville, Kentucky
12/20-21	M&M Word Processing, Houston, Texas
12/19-20	Practical Professions, New Orleans, Louisiana
12/12	Samverly College of Barberstylists, Atlanta, Georgia

NOVEMBER 1989

11/2-3	Art Institute of Atlanta, Atlanta, Georgia
11/6	Puerto Rico Professional College, Bayamon, Puerto Rico
11/7-8	World Supreme Technical & Beauty College, Caguas, Puerto Rico
11/8-9	Bauder Fashion College, Atlanta, Georgia
11/8-9	Institute of Audio Research, New York, New York
11/9-10	Pacific Travel School, Santa Ana, California
11/14-15	Design Floral School, Denver, Colorado
11/14-15	Phoenix Tech and Trade School, Phoenix, Arizona
11/14-15	Academy of Drafting, Tempe, Arizona
11/16-17	Southwest Academy of Technology, Mesa, Arizona
11/16-17	Automotive Technical Institute, Chicago, Illinois
11/16-17	ABC Welding School, Phoenix, Arizona
11/27-28	Lincoln Technical Institute, Pennsauken, New Jersey
11/27-28	Institute of Computer Technology, Los Angeles, California
11/28	Allstate Tractor Trailer School, Bridgeport, Connecticut
11/30	Connecticut Academy, S. Norwalk, Connecticut
11/6-7	Storey's School of Taxidermy, Spencer, Louisiana
11/6	Professional Truck-Driver Training School, Chicago, Illinois
11/20-21	Lincoln Technical Institute, Capital Heights, Maryland
11/13-14	Leone School of Technology, Buffalo, New York
11/30-12/1	Mangum's Barber and Hairstyling College, Rock Hill, S. Carolina

OCTOBER 1989

10/5-6	Nashville College, Nashville, Tennessee
10/12-13	Computer Learning Network, Camp Hill, Pennsylvania
10/16-17	Western Junior College, Spokane, Washington
10/17-18	Consolidated Welding School, Lynwood, California
10/17-18	Cheyenne Aero Tech, Cheyenne, Wyoming
10/18-19	Commercial Training Services, Portland, Oregon
10/19-20	Federico College, Fresno, California
10/19-20	Denver Institute of Technology, Denver, Colorado
10/19-20	Commercial Training Services, Des Moines, Washington
10/23-24	Hawaii Institute of Hair Design, Honolulu, Hawaii
10/23-24	ABC Tech (El Cajon Boulevard), San Diego, California
10/24-25	Boulder School of Massage Therapy, Boulder, Colorado
10/25	ABC Tech (Broadway), San Diego, California
10/30-31	PTC Career Institute (N. 2d Street), Philadelphia, PA
10/26	ABC Tech (Mission Gorge), San Diego, California
10/3-4	Andover Tractor Trailer School, Methuen, Massachusetts
10/16-17	Travel Careers, Cincinnati, Ohio
10/18-19	Travel Training Center, Dearborn, Michigan
10/23-24	Louisiana Bartenders School, Kenner, Louisiana
10/25	Louisiana Bartenders School, Baton Rouge, Louisiana
10/26	Louisiana Bartenders School, New Orleans, Louisiana
10/13	Winston-Salem Barber School, Winston-Salem, North Carolina

SEPTEMBER 1989

9/11	Video Technical Institute, Farmers Branch, Texas
9/12	Video Technical Institute, Irving, Texas
9/12-13	Art Institute of Philadelphia, Philadelphia, Pennsylvania
9/13	Video Technical Institute, Houston, Texas
9/14-15	Climate Control Institute, Tulsa, Oklahoma
9/19-20	Colorado School of Dog Grooming, Lakewood, Colorado
9/15-20	Apex Technical School, Oakland Park, Florida
9/21-22	Colorado School of Trades, Lakewood, Colorado
9/14-15	Baltimore International Culinary College, Baltimore, MD
9/26-27	Capri Cosmetology College, Dubuque, Iowa
9/26-27	Apex Technical School, New York, New York
9/26-27	Bauder Fashion College, Arlington, Texas
9/26-27	Belleville Barber College, Belleville, Illinois
9/28-29	French Culinary Institute, New York, New York
9/28-29	Electronic Learning Center, Santa Ana, California
9/18-19	California Institute of Locksmithing, Van Nuys, California
9/14-15	Florida Institute of Massage Therapy, Sunrise, Florida
9/11	MTA School, Columbus, Ohio
9/12	MTA School, Cincinnati, Ohio

AUGUST 1989

8/1-2	PSI Institute, Flint, Michigan
8/1-2	Mid American Training Center (ProDrive), Newark, Ohio
8/1-2	Trans World Travel Academy, St. Louis, Missouri
8/3	Trans World Travel Academy, Kansas City, Missouri
8/3-4	Ross Medical Education Center, Chicago, Illinois
8/3-4	Barclay Career School, Baltimore, Maryland
8/3-4	Roffler Hair Design College (Golden Triangle), Dallas, TX
8/7-8	Trans World Travel Academy, Los Angeles, California
8/8-9	Charlotte Diesel Driver School, Newberry, South Carolina
8/8-9	American Bartenders School, Hauppauge, New York
8/10-11	Vocational Training Center (Forest Park), St. Louis, MO
8/15-16	Dawn Aeronautics, New Castle, Delaware
8/17-18	Kalix Trade School, Philadelphia, Pennsylvania
8/17-18	Pennsylvania Institute of Culinary Arts, Pittsburgh, PA
8/17-18	Career One Training Center, Tucson, Arizona
8/23-24	Roffler Academy for Hairstylists, Hartford, Connecticut
8/23-24	Tempe Technical Institute, Phoenix, Arizona
8/24-25	Cleveland Institute of Technology, Pittsburgh, Pennsylvania
8/25	Roffler Academy for Hairstylists, Cheshire, Connecticut
8/25	Tempe Technical Institute, Tempe, Arizona
8/15-16	American Trades Institute, Dallas, Texas

JULY 1989

7/6-7	Lehigh Data Processing Institute, Wyomissing, Pennsylvania
7/6-7	Apex Technical School, Chamblee, Georgia
7/6-7	Ohio Travel School, Cincinnati, Ohio
7/10-11	Western Truck School, Oxnard, California
7/10-11	Mundus Institute, Phoenix, Arizona
7/12	Mundus Institute, Mesa, Arizona
7/12-13	Control Data Institute, El Segundo, California
7/13-14	Reese Institute of Massage Therapy, Oviedo, Florida
7/14	Control Data Institute, Riverside, California
7/18-19	RETS Electronic Institute, Houston, Texas
7/18-19	Sunstate College of Hair Design, Fort Myers, Florida
7/18-19	E.C.P.I., Greensboro, North Carolina
7/20-21	FEGS Business and Trade School, Long Island City, New York
7/20-21	MTA School, Harrisburg, Pennsylvania
7/20-21	PSI Institute, Charlotte, North Carolina
7/24-25	National Education Center, Fort Worth, Texas
7/24-25	Barclay Career School, Washington, DC
7/25-26	Gateway Electronics Institute, Omaha, Nebraska
7/26-27	ATI-Graphic Arts Institute, Dallas, Texas
7/27-28	MTA School, Commerce City, Colorado
7/27-28	Nash Academy of Animal Arts, Lexington, Kentucky
7/14	Davenport Barber College, Davenport, Iowa
7/6-7	Greenleaf Helicopters, Vancouver, Washington
7/13-14	Century School, Los Angeles, California
9/13-14	Sutech School of Vocational & Technical Training, LA, CA
7/20-21	Southwest School of Health Careers, Kenner, Louisiana

FLORIDA DEPARTMENT OF EDUCATION
Betty Castor
Commissioner of Education

Samuel L. Ferguson, Executive Director
State Board of Independent
Postsecondary Vocational, Technical,
Trade and Business Schools

UNITED STATES SENATE
COMMITTEE ON GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Hearing on September 12, 13, 1990
Statement
by
Samuel L. Ferguson
Executive Director
State Board of Independent Postsecondary Vocational,
Technical, Trade and Business Schools
Florida Department of Education

Mr. Chairman, and members of the Subcommittee, I am pleased to accept Chairman Nunn's invitation to submit this statement for the record. I will address Florida's experiences with the operation of the Federal student financial aid programs from the perspective of the state's agency for licensing proprietary vocational schools. In particular my remarks will focus on the relationships that accreditation, and the Federal eligibility/certification functions have with school licensure. I would first like to explain the composite of the State Board.

The Department of Education has established a State Board of Independent Postsecondary Vocational, Technical, Trade and Business Schools. The Board independently exercises the other powers, duties, and functions prescribed by law in the regulation of independent postsecondary career schools. The board includes nine members, appointed by the Governor as follows:
(a) One from a business school;
(b) One from a technical school;
(c) One from a home study school;
(d) One from a nonpublic school;
(e) Four from business and industry, and
(f) An administrator of vocational-technical education from a public school district or community college
Each member is appointed by the Governor for a term of 3 years, subject to confirmation by the Senate. Of the appointive members from the independent schools, each must have occupied executive or managerial positions in an independent school in Florida for at least 5 years. All members must be residents of Florida. In

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the event of a vacancy on the board caused by other than the expiration of a term, the Governor appoints a successor to serve the unexpired term. The board meets every two months and the Board members are only reimbursed for travel subsistence expenses as provided by law while performing their duties. Each board member is accountable to the Governor for the proper performance of the duties of the office. The Governor causes to be investigated any complaint or unfavorable report received concerning an action of the board or any member and takes appropriate action thereon. The Governor may remove from office any member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to or being found guilty of a criminal offense.

I have read the statement made by Dr. Janie Smith, Director of Non-public Postsecondary Education, Georgia Department of Education. Florida mirrors Georgia in several important areas such as budget and staffing, fragmentation of oversight, exemptions and strength of standards. While Florida had a major statutory revision that became effective October, 1989, it may not have gone far enough. One example, even after the substantial statutory revision, we are unable to prevent a school from stretching a 300 clock hour program to 1800 clock hours for no apparent reason other than financial aid.

Of the more than 500 currently licensed schools in Florida probably 50 or less have problems that would place them out of compliance with federal and/or state statutes and rules . These schools exist primarily through dependence on Title IV funding and are most likely in difficulty because of Title IV funding.

The reliance on accreditation in determining which institutions are eligible for Title IV funding has not and probably will not work. As you know, in the early 1900's when accreditation was conceived, it was to serve as a measure of academic excellence. The use of accreditation as the criterion of Title IV eligibility has changed the primary reason institutions apply for accreditation. One result of the pressures this has placed on accrediting organizations is that any licensing agency can no longer rely on accreditation as an indicator of what to expect from a school. Problem schools are as likely to be accredited as not. In fact the present indicator of which school's may be problems is the extent to which the school depends on financial aid in order to operate.

As part of this statement I would appreciate you allowing me to include several letters. The first is to the U.S. Department of Education. As you can see from my correspondence, I feel that in order for this Board to have any impact federal assistance and cooperation is required. A procedure for this type of assistance can be seen in the Veteran Administrations experience where

BEST COPY AVAILABLE

federal funds are given to the state for approval and compliance visits. These visits are made using both state and federal criteria in determining a school's eligibility to participate in these programs. The other two letters deal with accreditation and are self explanatory; I will not dwell on these letters. The point is, while accreditation plays no role in licensing, it certainly has an impact on the process.

One last document I would request you review involves a court order directing an accrediting commission to "provisionally accredit" an institution and furnish that institution with all necessary documents that would allow them to receive Title IV funding. I see not one iota of concern for quality of education or academic excellance. The order contains nothing to insure protection of the student nor does it acknowledge the fact that the student will be liable for any loans given at the school. My question would be, "will this same court forgive the student loan should this institution not deliver the education putting the student into default?".

The State and Federal governments have abrogated their responsibility to the Student Financial Aid Program. They have not taken the lead in assuring student aid is being properly used. Student aid programs have relied on accreditation to be the benchmark for eligibility. By now it should be apparent to all this method does not always work. The problems incurred by HEAF must be viewed as the harbinger of things to come.

I think it is extremely important that you also understand the lobbying effort associated with this matter. My own experience has ranged from one school owner purportedly spending $75,000, in a two day period to block new legislation, to being offered a free Caribbean cruise for a "little help". I use these two examples merely to point up the fact that what occurs on the national level also occurs locally.

If we are to make a difference a re-evaluation of priorities is necessary. For whatever reason the concept of the old triad of state, federal and accrediting agency has not worked and some change is necessary. Perhaps a new triad of Guarantor, Federal Government and State agencies are needed. Whatever the past has been it cannot continue. Some substantial changes are necessary to protect both the student and the honest school.

I appreciate the opportunity you have given me. If anything, I have shared has been of assistance to this committee then my time was well used. I look forward to helping you ensure that educational opportunities are made available to those who most need them.

I must also add, I have yet to visit the Caribbean.

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION
CASE NO. 90-30106 CA 27

RECEIVED
AUG 20 1990
SACHS & TAYLER

ADVANCED TECHNOLOGY INSTITUTE,
CORP. d/b/a THE BUSINESS AND
CONSTRUCTION ACADEMY, FELIX
LIMA, individually, and
RANDOLPH FEIN, individually,

Plaintiffs,

vs.

ACCREDITING COUNCIL FOR
CONTINUING EDUCATION AND
TRAINING, a Virginia non-profit
corporation, et al.,

Defendants.
______________________________/

ORDER GRANTING PLAINTIFF'S EMERGENCY MOTION FOR INJUNCTIVE RELIEF

THIS CAUSE having come on to be heard on July 2, 1990, on Plaintiff's Emergency Motion for Injunctive Relief and the court having heard argument of counsel, having reviewed the memorandums of law submitted by July 9, 1990 by the parties in support and in opposition to the motion, and being otherwise fully advised in the premises, it is hereupon,

ORDERED AND ADJUDGED that said motion be and the same is hereby granted. Defendant, Accrediting Counsel for Continuing Education and Training (ACCET) shall grant provisional accreditation to the Plaintiff, Advanced Technology Institute, Corp. d/b/a The Business and Construction Academy (BCA) forthwith. ACCET shall provide appropriate letter of accreditation to enable BCA to qualify for participation in Title IV funds of the U.S. Department of Education. The effective date of this order will be July 12, 1990.

Case No. 90-30106 CA 27
Page No. 2

DONE AND ORDERED in chambers at Miami, Dade County, Florida this 14th day of August, 1990.

S. PETER CAPUA

Circuit Court Judge

Copies Furnished to:

Counsel of Record

[illegible] SHARRY
708-4906

ACCET
ACCREDITING COUNCIL FOR CONTINUING EDUCATION & TRAINING
600 East Main Street • Suite 1425 • Richmond, Virginia 23219
Telephone 804/648-6742 • FAX (804) 780-0821

August 23, 1990

Mr. Felix Lima
The Business and Construction
Academy, Inc.
8230 West Flagler Street
Miami, Florida 33144

Dear Mr. Lima:

In accordance with the order issued by the Circuit Court of the 11th Judicial Circuit in and for Dade County, Florida, ACCET has been compelled to grant provisional accreditation, effective July 12, 1990, to Advanced Technology Institute d/b/a The Business and Construction Academy, Inc. ACCET received a copy of the "Order Granting Plaintiff's Emergency Motion For Injunctive Relief" (Case No. 90-30106 CAT) on August 20, 1990.

Notice of this action to the appropriate federal and state agencies is being forwarded by copy of this letter, together with a copy of the court's order.

Provisional accreditation status can be in effect "for a period not to exceed six (6) months, subject to ratification, modification, or rejection by ACCET Accrediting Commission" pursuant to ACCET Document 22 - Change of Ownership or Control. This matter will be considered by the Accrediting Commission at its meeting on November 30-December 1, 1990.

ACCET is a national accrediting agency listed by the U.S. Secretary of Education.

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August 23, 1990
Mr. Felix Lima
Page 2

BCA must submit a complete set of all documents and supplemental information listed on page 5 of Document 22 and not previously submitted, no later than September 5, 1990. A follow-up visit will be scheduled shortly thereafter, about which you will be notified.

Sincerely,

Roger J. Williams
Acting President

cc: Lois Moore, USDOE (w/encl.)
Samuel L. Ferguson, Florida DOE (w/encl.)
Carol S. Rabenhorst, Esq., Sachs & Tayler

FLORIDA DEPARTMENT OF EDUCATION
Betty Castor
Commissioner of Education

MEMORANDUM

TO: Mr. James B. Thomas, Inspector General

FROM: Samuel L. Ferguson, Executive Director, State Board of Independent Postsecondary Vocational, Technical, Trade and Business Schools

SUBJECT: Positions to Monitor Title IV Federal Financial Aid Programs

DATE: February 22, 1990

In reference to our conversation on Thursday, February 22, concerning positions to be used exclusively to monitor non-public institutions participating in Title IV Federal Financial Aid programs.

It is my understanding that administrative money is available from the U.S. Department of Education which will allow program reviewers to be hired by Guarantor Agencies. These program reviewers examine loan programs available to eligible institutions served only by the particular agency employing the reviewer. Thus, as in the case of many proprietary schools, even if there is more than one guarantor involved, the reviewer looks only at their particular agency's guaranteed loans. An additional consideration is that the vast majority of program reviews are only done for the "Top Ten" users of a Guarantor. By limiting these reviews to the "Top Ten" institutions, non-public proprietary institutions are given little, if any, scrutiny.

I recommend funding several positions which will perform program reviews and placing them within the state licensing authority. These individuals could look at programs in non-public institutions irrespective of the Guarantor agency used. There are other positive outcomes and advantages of placing these positions with the State Board of Independent Postsecondary Vocational, Technical, Trade and Business Schools.

Tallahassee, Florida 32399

[illegible]

1) Ease of access to the Board's database and the availability of current school files and records.

2) The proximity to our existing program specialists will lead to enhanced communication pertaining to the special needs of non-public schools and will foster close working relationships with Board staff in the presentation of necessary investigative reports and program reviews. Information and assistance could also be provided to current or subsequent investigations by the Office of the Inspector General.

3) These positions will also assist in the collection and presentation of information concerning federal student loan programs, as well as the institution's management of applicable PELL grants and campus based funds.

In considering Florida for such an aggressive and comprehensive program, I offer the following:

> Florida ranks 4th of all the states in population and 6 of the 11 fastest growing areas in the United States are in Florida;
>
> There are over 650 licensed independent postsecondary schools in Florida;
>
> One third of Florida's total school population is disadvantaged and thus qualifies for supplemental aid programs;
>
> Florida has legislation (HB 1502) that allows a "cease and desist" order prohibiting schools from enrolling students and accepting funds when probable cause is found; and
>
> Supplementing the current staff with financial aid "specialists" would give the Board the necessary manpower to enforce this new legislation.

What is needed, is the ability to evaluate an institution in its entirety. Given the historical direction and nature of accrediting commissions, it would seem improbable that they could accomplish such a comprehensive review. What may be possible is a combined effort by Federal and State agencies. The ideal scenario would be the review of an institution by the state licensing board, the accrediting commission and the Office of the Inspector General.

It has been our experience that the most efficient and effective policy has been to work with the U.S. Department of Education, Region IV, to obtain information. There are still considerable problems because our resources are limited and Region IV's responsibilities are spread across several states. As evidenced by the current situation, unless we attempt to solve these problems now it may be too late to address them in the future. Again, thank you for your support and consideration.

I would appreciate your review of this proposal, and I would be pleased to discuss this with you.

SLF:iw

FLORIDA DEPARTMENT OF EDUCATION
Betty Castor
Commissioner of Education

April 4, 1990

Dr. Gloria Cherney
Council on Postsecondary Accreditation
One Dupont Circle, N.W., Suite 305
Washington, D.C. 20036

Dear Dr. Cherany:

Reference is made to the Commission on Occupational Education Institutions (COEI) of the Southern Association of Colleges and Schools (SACS) five-year review for renewal of recognition by the Council on Postsecondary Accreditation (COPA).

The intent of this correspondence is to inform COPA of several concerns the Florida State Board of Independent Postsecondary Vocational, Technical, Trade and Business Schools has with SACS-COEI as it relates to your provision and procedures for recognition. The specific concerns are as follows:

- This Board has little evidence that COEI accreditation has protected the interests of students in some schools by allowing these schools to obtain candidacy and accreditation with apparent lack of oversight by the Commission. Currently millions of dollars are in default and unwitting students are subject to enormous loans they will never be able to repay after attending COEI member institutions.

- This Board has rarely been requested to submit materials or information prior to the granting of candidacy or accreditation by COEI. Only when problems surface at one of the schools involved with COEI, have we been contacted for information. Recently in Florida COEI acquired several institutions other accrediting agencies would not consider or were about to take negative action.

- We are unclear as to what information pertaining to an institution or program COEI will reserve or keep confidential and what information it will make public. All legitimate accrediting agencies have worked diligently with this Board regarding institutional accreditation; COEI has not.

- We have found little evidence that COEI effectively corrects misleading statements about the accreditation status of an accredited or candidate institution or program. In Florida, several COEI member institutions are purporting to offer "Degree" programs as opposed to vocational offerings. There have been instances where these schools have indicated the transfer of credit would be available to other schools. Though these statements were false, COEI made no attempt to have schools correct this misrepresentation.

- This Board has never been invited to attend as an observer or participate in any accrediting visit and thus has never had the opportunity to participate in discussions during the on-site visits.

By all accounts it would appear COEI has done a less than satisfactory job in representing to students, employers, state and federal agencies any assurances about the accreditation status of institutions or that some measure of quality and accountability is present. The vast majority of private COEI member institutions in Florida have presented great concern for our Board.

A sample of schools accredited by SACS-COEI that have closed under less than honorable circumstances are:

United Business Institute (7 locations)
United College (12 locations)
Ultissima Beauty Institute (8 locations)
Wilfred Academy
Virginia Schools: Business and Word Processing Division
South Florida Vo-Tech Center

Additionally, SACS-COEI has several candidate and accredited members that have been and continue to be given close scrutiny by this Board. Several schools rejected by other accrediting commissions have been accepted for membership by SACS-COEI.

These comments are not intended to cause SACS-COEI any undue hardship. They are intended to acknowledge shortcomings in the process of accreditation as we preceive them. I would be available to answer any questions you may have regarding this matter. I also request that this office be informed of the results of COEI's renewal.

Sincerely,

Samuel L Ferguson
Samuel L. Furguson
Executive Director
State Board of Independent Postsecondary
Vocational, Technical, Trade and Business Schools

FLORIDA DEPARTMENT OF EDUCATION
Betty Castor
Commissioner of Education

March 20, 1990

Ms. Maria Usera
Program Manager
National Accrediting Commission of Cosmetology
Arts & Sciences
Suite 710
1333 H Street Northwest
Washington, D.C. 20005

Dear Ms. Usera:

Reference is made to our telephone conversation of March 15, 1990, regarding the pro rata refund the Florida State Board of Independent Postsecondary Vocational, Technical, Trade and Business Schools is requiring of schools accredited by your agency. I am enclosing, for your information, the February 12, 1990 letter, as well as Ms. Cataldo's response.

As I explained during our telephone conversation, accreditation plays no significant role in the licensure process of Florida institutions. I am aware there are some States that permit institutions to be exempt from licensure by virtue of accreditation; Florida does not. I would add that NACCAS's established refund policy is only one of two accrediting agency refund policies that is not accepted by the Board. Enclosed is a memorandum from one of the Program Specialists outlining his findings. If we have correctly interpreted your refund policy (which I might add, is very difficult to fathom), a student could pay as much as $1,363.50 for 30.25 clock hours in a 605 clock hour program at a $4,545.00 tuition.

I find it extremely interesting that the Refund Policy your commission utilizes appears to be a "front-end load" cost to students. It is almost as if the expectation is one for failure and withdrawal rather than for successful completion and placement. I am certain that is not the intention in this case, but with the scrunity given to our sector, the appearance is often confused with the reality.

Tallahassee, Florida 32399
An Affirmative Action/Equal Opportunity Employer

Ms. Maria Usera
Page 2

I have attempted to familiarize myself with your accredited schools in Florida and I was immediately struck by the fact that your commission accredited Robert Fiance, Ultissima and Wilfred. One other accrediting agency involved with several of these schools has worked very diligently with this Board to rectify problems at the institutions. Your agency has not, to my knowledge, ever contacted us regarding these institutions.

I understand an accrediting commission is under no obligation to furnish licensing agencies with information regarding an accredited institution. I am also aware there is an issue of confidentiality between the institution and the commission. It does, however, seem to be an anomaly that a nationally recognized accrediting agency under the provision of 34CFR 603, can have their members participate in Title IV programs, but yet not furnish governmental agencies information on these same schools. Hopefully Congress will correct some of these deficiencies in upcoming re-authorization legislation.

I certainly hope your commission and this licensing agency will be able to have a mutually beneficial future relationship. If I can be of any assistance, please let me know.

Sincerely,

Sam Ferguson
Samuel L. Ferguson
Executive Director

SLF:iw

State Board of Independent Postsecondary Vocational,
Technical, Trade and Business Schools
107 West Gaines Street, 209 Collins Street
Tallahassee, Florida 32399

Remarks to the U.S. Senate Permanent Subcommittee on Investigations, Thursday, September 13, 1990

Dr. John C. Haworth, School Evaluation Specialist
Illinois State Board of Education

Several years ago I invited the director and an assistant director of a business school in Chicago to visit my Springfield office. The school, a branch of an out-of-state school and one of a chain, had been operating in Illinois for little more than a year and one-half. Already it had enrolled more than 1,800 students. How many students, I asked, had secured employment as a result of their training and the school's placement efforts? The director paused for a moment and said he guessed ten. His assistant shook his head and said, "No, in fact, seven had been placed." Several months later, after having enrolled almost 2,000 students in our state, the school's corporation went under after loss of national accreditation. The school's students were locked out. Today, more than three years later, the Illinois State Board of Education holds two surety bonds, each for $100,000, from which no money has yet been paid. Payment may never be possible. In this extreme case, illustrating some of the serious problems in the proprietary school industry in recent years, very probably most of the school's former students are in worse financial condition than when they began training. Few may be repaying their loans.

Had we done something wrong when we first approved the school to operate in Illinois? I've asked this question many times. On paper, at least, the school had satisfied all requirements for approval. All of its faculty met state requirements; equipment was in place; the site had been certified as safe; contracts and refund policies met state standards; advertising copy was acceptable. Even the school's financial report gave no hint of corporate difficulties. Still, when we issued the school's certificate--and we had no legal grounds not to do so--we suspected there would be problems ahead. Its admissions policies, while technically meeting state requirements, were next to worthless. Marketing was aggressive. Targeted in its sales promotions were disadvantaged inner-city youth. As best we can tell from the records, all were eligible for maximum financial aid.

I truly regret that we issued that school certificate. But I'm making no excuses. Clearly, the Illinois law was not drafted to ensure quality education. Its purpose is to provide basic consumer protection. If the school was required to disclose facts truthfully, the student could make proper decisions about whether to enroll. In short, the student could act in his or her own best interest. If the student did make a mistake, he or she could recover some of the financial loss via a refund policy presumed to be fair to both the school and the student. Little matter that many student consumers, especially in the big city, had no means available to make proper comparisons between schools or, as our experience tells us, cared little about making comparisons so long as they were assured someone else was footing the bill. Classic free market economics does not, in fact, exist in the proprietary school industry when so many schools depend on what amounts to federal subsidy.

While we as staff often become alarmed by what we see and are frustrated because of how little we are able to do under the law, we have, in the main, succeeded in carrying out our basic charge to ensure minimum school compliance. In this regard, I suspect our situation is not much different from that in other states. Some schools may have to work harder and take longer to get approved, but eventually most receive a certificate. Once they receive a certificate, few lose it. Due process constraints make revocation of a certificate extremely difficult. During my tenure with the office, only two schools in Illinois have been closed as the result of the hearing process.

The history of proprietary education in Illinois has not always been a happy one. In the summer of 1975, the Chicago Tribune exposed problems in the industry, especially questionable sales practices. That summer, new, more comprehensive legislation was passed. Rules adopted in 1977 were "state of the art" at the time but provided little means of enforcement. Little did we know then that in the years immediately following so many changes would take place in the industry. Many of the old, traditional family-run proprietary institutions began to fade away. School brokers arrived on the scene, and the chains grew. Schools tooled up to receive CETA and later JTPA contracts. For the most part, retail installment contracts, often funded by the school, disappeared. Something new had arrived on the scene: financial aid. With financial aid came a rapid growth in the number of nationally accredited schools.

For the most part, we were only observers of this activity. True, we enforced our law, but we had no part in the administration of the financial aid programs. There was little contact with federal people. Contact with the accrediting commissions was limited, for the most part, to staff members serving as observers on accrediting teams. Seldom did government people ask for assistance. In the mid-70's there had been a great deal of talk about three-way cooperation--the "Triad"--and "reciprocity" between the states. For a decade or more most of this talk was forgotten. Only perhaps in the last three or four years has the sharing of information, mostly on an informal level, with regional U.S. Department employees increased. Accrediting commission policies continue to inhibit their release of information which might prove useful to the states.

It's my personal belief that true "reciprocity" will never be attained except when it is dictated at the federal level. Each state has its own regulatory tradition which it is unlikely to relinquish. Some states want to enforce their laws. Others do not. I'm not overly optimistic about the accrediting commissions' abilities to work easily with the state or federal governmental bodies so long as their posture remains so strongly in favor of defending the industry as a whole and lobbying efforts focus so much on keeping federal funding flowing freely. As the staff member responsible for processing written student complaints notes from time to time, we seldom, if ever, receive a complaint about a non-accredited school. Most complaints in the past few years have been about refunds, and the refund questions are linked to financial aid. There is a message here for the leadership of the accrediting bodies if they want to clean up problems in the industry.

With 111 accredited schools under our agency's regulation, about three times the number we estimated were accredited several years ago, we are receiving approximately 200 written complaints annually. Interviews with students at the schools suggest the number of these complaints don't reflect the level of student discontent at some of these institutions.

The accrediting bodies will agree, I believe, that they need further reform. So do the states. Only after the Chicago Sun-Times documented cases of fraud and questionable practices, the use of unqualified teachers, and refund problems did our legislature amend our law in 1988. Schools must now provide information on graduation rates and placement on enrollment agreements. We hope students will read this information. We suspect many won't. Schools whose graduation rate falls below a required level will be placed on probation. But for every gain made on behalf of the students, it appears there must also be a loss. Whereas under the old law students in both accredited and non-accredited schools were not obligated for the full cost of tuition until 75% of the course had been completed, under the "reform" legislation, students at accredited schools become fully obligated after only 50% completion. For some reason, non-accredited schools, which I have explained earlier cause few problems, must adhere to a modified pro-rata refund policy in which students are not obligated until 80% completion. For many years our staff has advocated a pro rata refund policy as the most needed change in the industry.

For six and one-half years staff labored for adoption of new rules acceptable to the legislature and the schools. While many of the items staff felt were important were gutted in this process, for the first time the State Superintendent Leininger may invoke sanctions to suspend a school's sales and advertising and enrollment activities if it is found the school is not in compliance. No longer must we rely on the ultimate action--revocation--to get a school's attention.

Three years ago a young lady stepped outside a Public Aid office in Chicago. There she was stopped by a man who explained he was conducting a school survey; he was soliciting for the same school I described in the beginning of my remarks. Would she like to be trained for a job if financing were available? The young lady, who with her family had moved to Chicago from Kentucky, had only an eighth grade education. Later, on the telephone she told me the best job she ever had was part-time at a laundromat. But this was no ordinary person. On her own, she had passed the G.E.D. and taught herself the basics of typing. She asked the man if the school he represented could teach her to type well enough to get a job. The next day she took an entrance test at the school and was told she scored the highest score ever and was convinced to enroll not in typing but in a much more expensive accounting course. I've often wondered what happened to this girl who dropped out shortly after enrolling, because she said the teachers weren't trying to teach the students very much. I've often wondered why so few of those 2,000 students have never written to us complaining about their experience or requesting help in securing a refund. Is it possible that some of these students didn't know how?

The problems of the proprietary schools reflect to no small degree the educational problems our nation faces. In our free society we need the alternative of private, proprietary education, but we need more proprietary school educators who have the courage to swim upstream and demand adoption of enforceable educational standards which will ensure appropriate use of federal funds and the adoption of specific educational standards which will ensure the development of the highly trained and motivated work force our nation so desperately needs in the 1990's.

JH MS\082MI155

HEARING FOLLOW-UP QUESTIONS

Dr. John C. Haworth
School Evaluation Specialist
Illinois State Board of Education

WHAT MORE CAN STATES DO TO PROTECT TITLE IV INTERESTS OF STUDENTS AND THE AMERICAN TAXPAYER? FOR EXAMPLE, SHOULD STATES INCREASE THE AMOUNT OF POLICING THEY DO REGARDING PROPRIETARY SCHOOLS AND, IF NOT, WHO SHOULD PERFORM SUCH AN ADDED ENFORCEMENT ROLE?

The State's principal responsibility should be to facilitate and promote quality education and responsible, ethical business practices by the schools. If the State does this job well, many of the Title IV problems may be eliminated. The State should attempt to prevent the occurance of problems. Unfortunately, school administrators in some States tell us the approval process often consists of little more than the filing of an application and payment of an annual fee. Applications we receive from some out-of-state schools seem to verify these observations.

The U.S. Department of Education can certainly intensify its regulatory/auditing role but, potentially, it is still the States which can be most effective in monitoring school activities. But the States must have decent laws, adequate staff, and the will to regulate. They can promote the industry and help produce a trained, employed work force in their States if they eliminate those schools which have caused so much damage in recent years. When problems occur, they must be prepared to act quickly.

IN YOUR VIEW, IS THE TRIAD, AS CURRENTLY CONSTITUTED, CAPABLE OF KEEPING UP WITH THE FAST-PACED, QUICKLY CHANGING, AND PROFIT-DRIVEN PROPRIETARY SCHOOL INDUSTRY AND, IF NOT, WHAT MORE SHOULD THE ACCREDITATION AND/OR U.S. DEPARTMENT OF EDUCATION LEGS DO?

No. The accrediting bodies can continue to strengthen their policies, procedures, and standards, screen new applicants for accreditation more carefully and take greater initiatives to remove accreditation; however, because of the nature of their membership and their limited financial resources, they may not be able to be much more effective than they are at present. They could and should regularly and promptly release their school accreditation reports to the U.S. Department and the States, but it is unlikely they will want to do this for fear of litigation. Such information may also sometimes be embarrassing. Legislation which requires the sharing of this information and protects the accrediting commissions from lawsuit would be of tremendous help. If abuses are to be reduced, the U.S. Department will need even more investigators and investigative teams if the present financial aid systems are to be continued. Consideration needs to be given on how the Department and the States can better coordinate surveillance. I think such coordination can be made to work effectively in Illinois.

BEST COPY AVAILABLE

FROM YOUR PERSPECTIVE, HOW WOULD YOU RATE THE PERFORMANCE OF THE U.S. EDUCATION DEPARTMENT REGARDING ITS ADMINISTRATION OF THE TITLE IV PROGRAM?

Our direct dealings with the U.S. Department are for the most part limited to contacts with the Office of Regional Investigator General, Region V. From time-to-time, at the Department's request, we supply a great deal of information from our school files to their investigators; however, for the most part, communications with regional staff, while cordial, are infrequent and informal. During investigations Department personnel visit of our offices from time-to-time. Recently, Region V personnel called a meeting in Chicago to encourage the several Illinois agencies regulating the schools and monitoring financial aid programs to share information about their agency's operations and identify major problems. To date, there has been no follow-up to this meeting.

While the Department regularly distributes publications on financial aid to us, since our agency does not regulate aid programs, usually this information has no impact on our operations. I emphasize, usually; for when the Department chose to impose new rules on the use of credit and clock hours, much confusion followed. Historically, our State has been a "clock hour State." Failure of the Department to resolve the credit hours/clock hour issue has caused hardship both to Illinois schools and problems for this agency. Our staff feels all proprietary schools should be required to report by clock hours. Only if clock hours are used can most buyers understand what they are buying, refunds be easily and accurately computed, and students not be deceived regarding transferability of credits to traditional postsecondary collegiate institutions. In our opinion, had the Department held to its original position or at least provided a prompt and definitive response to what was the Department's new posture, it would have avoided much of the criticism it has received lately.

About the time questions began to arise about the credit hour/clock hours issue, we were invited to participate in a monthly telephone hook-up with Department staff and colleagues in several other States. This activity should prove helpful, but the results probably won't meet our most pressing regulatory needs. If the Department is conducting investigations or taking legal action against a school, State regulators need information on these activities if they are to play any significant part in resolving the school's problems. Recognizing the legal problems which such communications may pose when litigation may be involved, the Department, like the accrediting bodies, should provide timely, specific information regarding evidence of possible noncompliance with State regulatory bodies.

While the Department has many able people and its activities in the proprietary school area have increased, historically it appears oversight of these schools has not been a priority item on its agenda. Apparently little attention in the past has been devoted to what can be done to prevent problems. Perhaps the Department has placed too much faith in the efficacy of the accrediting process. One wonders how much attention the schools would have received in Washington had the default problem not attracted so much attention. Sustained effort is required.

ONE OF THE MAJOR PROBLEMS CITED REGARDING PRESENT PROPRIETARY SCHOOL PRACTICES IS BRANCHING. FROM YOUR PERSPECTIVE, WHAT SHOULD BE DONE ABOUT BRANCHING, AND SHOULD ANY ONE OF THE TRIAD BE MORE RESPONSIBLE THAN ANOTHER?

The Illinois law does not provide for branching, a practice promoted by the schools and their accrediting bodies. We do permit schools to operate "classroom extensions," which are facilities used wholly or in part for instructional purposes at a location different from the school's principal location. If any activity other than instruction takes place at a site, the facility at that site must be fully approved as a school. If a company does business and provides instruction at several sites, each site must be approved separately as a school. This requirement is in recognition, in part, of the fact that even schools with the same program and owned by the same company are in some ways different. For this reason, we believe each school should be evaluated separately and be subject to the same kind of regulatory scrutiny.

If a company desires to do business at several locations, as an accredited school(s), I believe school personnel at each site should conduct a comprehensive self-study and the school be subject to a thorough team evaluation. Accreditation should not follow until evidence of satisfactory student completion and placement for the site can be verified. The administration at each site should demonstrate it can identify the school's problems, take rational steps to correct these problems, and satisfy accreditors that the school is fulfilling its stated mission. To prove itself, a branch would probably need to operate under its management for at least a year.

Because branching frequently involves schools in several States, it seems proper for this practice to be a matter of federal concern. Accrediting bodies should continue to adopt procedures to slow down branch approval. In my opinion, if the U.S. Department wishes to continue to rely so much on accreditation, it must be prepared to take a much more active role in the approval and oversight of the accrediting bodies. It may wish to eliminate branching.

The States must be keystones for proper regulation.

IN SOME STATES, LICENSING AGENCIES OVERSEEING PROPRIETARY SCHOOLS CONSIST EITHER IN PART OR WHOLLY OF PROPRIETARY SCHOOL OWNERS. IN YOUR EXPERIENCE, HAVE YOU SEEN INSTANCES THAT SUGGESTED AN APPARENT OR ACTUAL CONFLICT OF INTEREST AS THE RESULT OF THIS SITUATION? IF SO, WHAT CAN OR SHOULD BE DONE ABOUT THIS PROBLEM?

Illinois statute places responsibility for the supervision of most proprietary schools with the State Superintendent of Education, who reports to the State Board of Education. In practice, the Private Business and Vocational Schools Unit, a part of the Department of Recognition and Supervision, recommends approval, suspension, revocation, etc. Not all proprietary schools, however, come under the jurisdiction of this agency. Cosmetology schools, for example, are regulated by the Department of Professional Regulation; in-state truck driving schools are regulated by the Secretary of State. Illinois, therefore, does not have experience with direct school participation in the governance of proprietary institutions. The law provides for a twelve-member Private Business and Vocational Schools Advisory Council, which operates under the oversight of the State Superintendent for those schools which are under his/her jurisdiction. Included in the membership of the Council must be one owner or chief managing employee from a business school, one owner or chief managing employee from a technical school, and one owner or chief managing employee from a home study school. The Council's charge is to meet at least three times a year "to review and advise the Board and Superintendent as may be appropriate on the effectiveness and efficiency by which rules and regulations carry out the intent of the Act," protect the interests of the students, and enhance the ability of the schools to provide quality courses of instruction. Since the Council in its present form is a new creation, it's too early to determine what part it may play in improving governance activities.

From out-of-state schools and regulators in other States where statute permits schools to play a more active role in the regulatory process than in Illinois, we hear allegations of politicalization, uneven treatment of schools, delays in the approval process, difficulties in securing legislative reform, and the insecure tenure of some State administrators and staff who, apparently, find it difficult to satisfy commission members, including school representatives, while also serving as effective consumer advocates. It's dangerous to generalize on this subject, since it's evident the regulatory environment differs from State to State and the type of governance is only one factor in the dynamics of these environments.

Still, I believe the Illinois model, with its due process protections and school representation on the Advisory Council, is preferable to forms of governance in some of the other States. Under our system, schools have ample opportunity for input in the hearing, rule-making, and legislative processes. Staff can and has been held accountable by the Superintendent for all of its activities.

DO YOU FAVOR THE ESTABLISHMENT OF FEDERAL STANDARDS REGARDING THE LICENSING OF PROPRIETARY SCHOOLS?

I do, and for starters refer the Committee to work done by the Federal Trade Commission in 1978. It's my understanding that Congress, on request of the schools, returned the Commission's proposal for further study, and nothing has happened with the proposals since. While the Commission's work is old and some parts may not pertain directly to the problems the Committee has been studying during the hearings, it includes one most important reform: a workable pro rata refund policy.

As stated elsewhere in my testimony, laws in some States are inadequate. Many States lack staff to enforce laws which are on the books. For a variety of reasons, accrediting bodies appear unable to provide the kind of regular monitoring required in an environment in which federal financial aid plays such a dominant role. Unfortunately, too many States still substitute national accreditation for State approval. Recently I read a publication from one of the bodies which explained accreditation is not a perfect process. I suggest it is imperfect in part because "standards" have relied too much on "shoulds" and not enough on "shalls"; that is, the standards are statements of philosophy rather than rules by which the schools' performances can be measured. Without more precise standards, satisfactory enforcement becomes impossible.

I favor federal standards, but warn they will have value only if:
(1) They are written in such a way that they can be enforced;
(2) The government is willing to allocate sufficient resources to make them work.

The following are just a few areas which may benefit from federal attention.

1. Admissions. Minimum, specific admissions requirements by course and the vocation for which a student is being trained are needed. I suggest considering use of achievement, aptitude, and interest tests already devised by the Civil Service, the armed forces, etc. The Committee might consider utilizing federal/State employment offices for test administration.

   The ability to benefit concept needs total overhaul.

2. Financial Viability. Students must be protected in the event a school closes or fails to deliver the services for which it has contracted. Since the government, as well as the student, is usually a loser in such circumstances, it must investigate ways to cover these losses. Distasteful as bonding may be, it may still be the best way to handle these contingencies.

3. Student Progress. Our visiting teams continue to find too many phantom students still on school rosters who should have been dropped for attendance or academic reasons. Proper monitoring of such matters requires uniform standards for student recordkeeping.

4. Graduation Requirements. Obviously, on graduation students should be adequately prepared for the job market. The Committee may wish to consider establishing minimum performance standards for graduates. When available, Civil Service standards might apply. A business school might, for example, certify its secretarial graduates will meet standards for Clerk/Typist I, etc.

5. Course Length. The Committee may wish to determine the maximum length of hours needed to achieve certain skill levels. The armed forces' experience with training programs may provide some guidance. Financial incentives should be focused on getting the student to the desired performance and employment standard in the very shortest possible time. I believe the Committee has already identified the serious problems resulting from schools lengthening programs unnecessarily and increasing tuition costs.

6. Graduation/Completion/Placement Rates. Quite simply, those schools which don't meet reasonable norms should lose eligibility. The problems with this suggestion are: (1) What are acceptable, reasonable norms? (2) How can we be assured statistics furnished by schools are accurate? (3) Who will have the responsibility for auditing the reports and enforcement?

   If standards are developed, prompt, efficient due process procedures for revocation of institutional eligibility will need to be developed. If, perhaps, standards at the front end of the eligibility process are elevated, there will be fewer instances when revocation is required.

IN YOUR STATEMENT, YOU MENTION THAT STAFF OF YOUR OFFICE WORKED FOR MORE THAN SIX YEARS TO GET NEW RULES ADOPTED AND, EVEN AFTER THAT EFFORT, MUCH OF WHAT WAS SOUGHT WAS GUTTED IN THE PROCESS. GIVEN THE SERIOUS PROBLEMS, WHY DID IT TAKE SO LONG FOR YOUR TO GET ACTION? WHY DID YOU GET SO MUCH LESS THAN YOU THOUGHT WAS NEEDED?

Extended research; mandated and special hearings; task forces; intervention by some school owners, special interest groups, and legislators; legislative and legal revisions and negotiations; amendments to the Private Business and Vocational Schools Act taking place concurrently with the rule-making process; normal bureaucratic delays; perhaps a lack of sense of urgency by some participants in the process all probably contributed to some degree, but, in my opinion, intervention was the primary reason for the delays.

In retrospect I've concluded the game was tilted in favor of the limited number of schools who were most vocal in opposition to significant change. There were, no doubt, concerns on the part of some school people that the proposed rules might allow for undo staff discretion in rule application. Staff reports following school visits in recent years had cited a number of acts of noncompliance. Such revelations are not pleasing. Better defined rules were threatening. The Attorney General and Cook County State's Attorney became actively involved in advocating reform only after articles in the Chicago press and as a result of the number of student complaints received in their offices increased significantly. Simply put, the originally proposed rules presented by the State Superintendent and Board called for a more pro-active role for the State than some of the schools were willing to accept. Students affected, who might have benefitted by rules which held schools more accountable than before, were incapable and unable to play any significant part in the debate and in the controversy's resolution. Rules addressing such topics as financial viability, advertising, recordkeeping, administrative accountability, faculty qualifications, class size, and student grievances were amended or deleted from the rules finally adopted.

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Written Testimony

of

Joe L. McCormick

President

Texas Guaranteed Student Loan Corporation

submitted to

The United States Senate Permanent
Subcommittee on Investigations

September 13, 1990

INTRODUCTION

The inquiries of the Senate Permanent Subcommittee on Investigations into the increasing instances of fraud and abuse in the Guaranteed Student Loan Program are extremely important to a full understanding of the current issues facing the GSL program. As president of Texas Guaranteed Student Loan Corporation, one of the largest guarantee agencies in the country, I appreciate the opportunity to submit testimony on the role that accreditation, certification, and state licensing play in this matter. Since guaranteed student loans represent the single largest source of financial aid for needy students both nationally and in Texas, I am vitally concerned about the quality and the caliber of the schools certified eligible to participate in the GSL program.

In my almost 25 years as an administrator of student financial aid, I am no stranger to student financial aid programs or to the fraud and abuse that sometimes is found in them. In the past I have served on Department of Education task forces dealing with program compliance audits of schools. I have served as President of both the National Association of Student Financial Aid Administrators and the National Council of Higher Education Loan Programs. Prior to my current position, I was Director of Financial Aid at the University of Houston where I served on a special task force to resolve the aftermath of a major investment scandal. Currently I serve as a member of the Advisory Committee on Student Financial Assistance, a committee established by

Congress to monitor the federal programs of student aid and to make recommendations for improvements to Congress.

TGSLC administers the GSL program in Texas and has the responsibility for program oversight of schools and lenders in the program. More importantly, TGSLC works to provide statewide access to student loans for all eligible students regardless of the type of school they may attend (two-year, four-year, or proprietary). TGSLC firmly adheres to the philosophy of the GSL program as laid out by President Lyndon Johnson when he signed the Higher Education Act in 1965... "our goal here is to provide access to every student who wants to better himself through higher education."

TGSLC and I have been very outspoken on the subject of fraud and abuse in the GSL program. We publicly exposed the activities of a few unscrupulous schools operating in the GSL program by publishing "School or Scandal?" in 1989. For these reasons, TGSLC statements and policies have been misinterpreted and highly criticized in certain circles to falsely project the position that TGSLC is opposed to proprietary school participation in the GSL program. TGSLC fully recognizes the valuable contribution made by the many well-run proprietary schools in our state and throughout this nation. We fully support qualified, reputable proprietary schools participating in the federal programs of student financial aid and oppose recent proposals suggesting that proprietary schools have separate aid programs.

On the other hand, there is no place in any student aid program for the "profiteering, money-merchant mentality" of certain school owners who simply treat their school as a "cash cow" with no intent to provide a quality education.

However, it is not enough for us to simply report on the fraud and abuse that may exist in the student loan program. We must expose and eliminate the root causes. We must implement reasonable solutions that 1) will be effective and 2) will be consistent with federal policy. More importantly, we must not yield to political pressures or threats from vested interests that would deter us from action. We must exercise the professional courage and integrity, both as administrators and policymakers, to implement solutions. Some solutions need immediate action, others need to be considered during congressional reauthorization. The viability and integrity of the GSL program cannot be compromised if we are to continue to provide the nation's young people with the loan funds they need to attend the school of their choice.

SCHOOL ELIGIBILITY: "WHO'S THE GATEKEEPER?"

To understand the current level of fraud and abuse, one must carefully examine the roles and relationships of the accrediting bodies, the state licensing bodies, and the Department of Education. On the surface it appears that schools have to go through a lot of scrutiny before they are approved to participate in the student loan programs. But upon closer examination, one finds:

* a wide variety of national and regional accrediting agencies which ironically are regulated and approved by the Department of Education. Historically, accrediting agencies have demonstrated weaknesses in two areas: lack of clarity as to their role or the low standards they impose on member schools. Too often the accrediting agency is viewed as simply another lobbyist for the proprietary school industry.

* a broad range of licensing requirements for proprietary schools from state to state. There are no uniform federal standards states must meet in order for their schools to receive federal aid.

* until recently, very little coordination between the various "gatekeepers". Little evidence exists to indicate that accrediting agencies, state licensing agencies, and the Department of Education regularly communicate and/or coordinate their actions in approving schools. However, in my own state of Texas we have begun to work very closely with state licensing agencies and the Attorney General's Office.

* a prevailing attitude by the Department of Education that if the state has licensed a school and an accrediting agency has accredited the school, then the law requires the school to be certified eligible for federal student aid. A September 1989 Inspector General's Audit of the Department of Education's process for certifying schools stated: "Generally, the Office of Postsecondary Education's system did not assure that both students and the federal government were adequately protected in the event that a school failed before it provided all educational services...Thus, practically all the schools that applied were certified to participate in the Title IV programs, even though some showed signs of serious financial problems."

- by the time all the eligibility steps have been taken, the guarantee agency has no choice but to allow the school in the loan program. TGSLC attempted to prevent two truck driving schools from participating in our program only to be directed by the Department of Education to guarantee their loans. Both truck driving schools have since gone bankrupt and many of their student loans have already defaulted.

In reality, all the above parties share responsibility for not having policies and procedures in place to deal with the dramatic growth of loan volume and the number of trade schools in the program during the 1980s. During the period of 1986 to 1990:

- the level of loan activity, particularly in the Supplemental Loans for Students, grew dramatically. On the national level, SLS loan volume jumped from $279 million in 1986 to over $2.1 Billion in 1989. Total Default Claims paid for SLS loans increased from a mere $35 million dollars in 1988 to almost $300 million dollars in 1989. In Texas alone over 68% of the claims paid to lenders this year were for students who attended proprietary schools. Many of these students were enrolled in short-term courses (less than 600 clock-hours) such as bartending, security guard, dog grooming, and truck driving.

- The Department of Education approved over 2,000 schools eligible in a four-year period while only denying eligibility to some 60 schools. In Texas, the number of proprietary schools increased from 167 in 1986 to over 420 in 1990.

- In 1986 the responsibility for school/lender program compliance reviews was shifted to guarantee agencies. In 1980 the Department of Education conducted over 2,000 reviews and in 1988 conducted less than 400 reviews. More importantly, the number of Limit, Suspend, and/or Terminate actions taken against schools by the Department of Education has been few.

- Fortunately, states like Texas, California, and Georgia, not prepared for the initial growth of proprietary schools, passed additional legislation in 1989 to better exercise oversight of these schools.

Based on our own experiences in Texas, I am firmly convinced that the single most effective measure to be taken to address fraud and abuse in the GSL program involves school eligibility and approval by all the appropriate entities. To depend on the program compliance procedures to deal with schools after the fraud and/or abuse has been committed is simply "too little, too late". By that time the student has been harmed and the student loan debt has been incurred. An Ounce of Prevention is worth a Pound of Compliance.

PROGRAM COMPLIANCE: THE TEXAS EXPERIENCE

Guaranty agencies also have an important role to play in preventing fraud and abuse and protecting the integrity of the student loan program. The role of the Guarantee agency is limited to the program compliance function and the ability to take action to Limit, Suspend, or Terminate a school when circumstances warrant it. TGSLC has taken a leading role in this area along with several other states such as California, Georgia, New York and Pennsylvania.

Since 1988 the TGLSC Compliance staff conducted over 92 school & lender reviews, negotiated over 33 default reduction agreements, exercised 11 emergency suspensions, and terminated 5 schools or lenders. Some of the most significant findings of our compliance staff were:

- Failure to make timely refunds of loan proceeds to lender on behalf of the student
- Failure to meet the two-year program audit requirements
- Abuses in the "ability-to-benefit" provisions of student eligibility
- Failure to meet the factors of financial responsibility for the school

More often than not our reviews of problem schools have indicated a poor quality of educational program as reflected by the physical condition of the school facility, the low job placement rate, and the high student withdrawal rate. Students who feel they did not receive the training they were promised or who are unable to find a job -- or both -- may not feel the sense of obligation to repay the student loan.

Consider the case of the student who enrolled in a truck driving school, used a loan to pay the tuition, dropped out after 3 days, and left with the mistaken impression he did not owe any amount on his student loan. As a result, his loan ultimately defaulted and, as is required by law, his account was reported to a credit bureau. Three years later the student is denied a home mortgage loan because of his "defaulted student loan". Somehow the GSL program failed this student and many like him and now he is being unfairly punished with no way under current law to resolve the student loan but to pay it.

Probably the worst case TGSLC has uncovered to date was the school in Houston that recruited homeless people off the streets of New Orleans and bused them to a motel near the school, enrolled them and financed it all with a combination of Stafford and SLS loans. These students were being charged over $5,000 to take a brick laying course that the local public junior college was offering at $80 total. As soon as TGSLC and the state licensing agency were made aware of the situation, immediate steps were taken to terminate the school. Unfortunately, over $5,000,000 in student loans were processed before we could legally terminate the school. This school was accredited by a nationally known accrediting agency, certified eligible to participate in the student loan program as a branch of an already eligible barber school by the Department of Education, and no one bothered to ask, why?

Finally, our most recent termination of a school involved some 17 branches and resulted in over a $2.0 million dollar liability due to student refunds owed by the school.

Unfortunately, the school had a cumulative loan volume of around $50 million dollars before we could legally remove them from the program. Over $10 million dollars has already defaulted. This school was accredited by a nationally known accrediting agency, but our records do not indicate any adverse action taken by the accrediting body.

How can we relate to the feelings of frustration and victimization that these students must have after their dream of a better life has turned into a debt they either cannot or will not repay? Shattered dreams, ruined credit, high default rates, and all in the name of providing access! The question must be asked Access to what? The words of Secretary Cavazos given before the Senate Subcommittee on Postsecondary Education are worthy of recognition here:

> "...States, accrediting agencies, and the Federal Government must do more, individually and together, to make sure that only truly high quality educational institutions will be able to open their doors to students who need Federal student aid."

In the Inspector General's Semi-Annual Report to Congress, many of the program abuses we have found in our program compliance reviews of troubled schools are cited. Many of the program abuses cited in the March 1990 report can be prevented by improved accreditation, certification, and state licensing requirements.

CONCLUSIONS AND RECOMMENDATIONS

Senator Nunn, in a recent press release you commented and I quote:

> "unscrupulous trade school owners amassing huge profits while providing little or no useful training at the expense of unsuspecting students..." and
> "Despite their problems, far too many of these bad schools continue to be licensed, accredited, and certified for federal funds..."

I could not agree more, Senator Nunn. I would even go further to say there ought to be a 'Bounty on those schools and no bag limit!' But when I read comments to the effect that these programs are "riddled with waste, fraud, abuse and just plain inefficiency..." and "This is a federal program teetering on the brink of disaster", with all due respect to the Honorable Senator from Georgia and the worthwhile purpose you seek to achieve, I must seriously object to the inference that the fraud and abuse we have come to discuss is typical throughout this program.

Overall these programs are sound and provide a valuable contribution to the future education of this nation's young people. We must be careful not to use a shotgun when what is needed is a sharp shooter with a rifle when attempting to address these. To address the accreditation, the licensing, and the certification of eligibility to receive federal funds is right on target.

In our excitement and enthusiasm to rid these programs of fraud and abuse let us not lose sight of the positive steps that have been taken by the Congress, the Department of Education, the Guarantee agencies, the states, and the proprietary school associations during the past two years. While these initiatives do not represent all that needs to be done, they do represent significant progress toward addressing fraud and abuse in the GSL program.

As evidence these initiatives are working, already this year there have been significant reductions in SLS and proprietary school activity. As reported by the General Accounting Office in August of this year, there is over $280 million dollars less volume in the SLS program this year over the prior year and an approximate 65% reduction in SLS volume to proprietary schools. This is both good and bad news; good news to the extent the bad schools are not in the program, bad news for students attending reputable proprietary schools who are unable to find loans. There is a delicate balance that must be achieved to assure loan access to eligible students in a student loan program that depends on the full support of the federal government and the willingness of private lenders to make loans.

In the twenty-five years of the Guaranteed Student Loan Program, over $100 billion dollars has been guaranteed to over 48 million students who have by and large done an outstanding job repaying their loans and making productive contributions to our society. When you take into account all the students currently in repayment and add the payments received from defaulted borrowers, then the Net Default Rate nationally is less than 10%. That is an outstanding record when you consider those loans were made with no collateral, no cosigner, no credit...only the student and his promise to repay. Investing in our young people is still the best investment of tax dollars this country has or will ever make.

Recommendations to improve the GSL program and prevent fraud and abuse have been made by various organizations and/or individuals. Unfortunately, most of the suggestions are met with a great deal of caution and the typical response: "well, that is an interesting idea, but let's wait until reauthorization to consider it." There are proposals worth our serious consideration now. I would urge Congress to seriously consider legislation this session which would:

1. Require all eligible schools to offer programs of study at a minimum of 600 clock-hours; this would eliminate correspondence courses and short-term courses under 600 hours, where much of the program abuse has occurred, from GSL eligibility.
2. Return all course-length requirements to clock-hour calculations and provide penalties for course stretching.
3. Adopt the default prevention provisions of S.B.695 now pending before Congress.
4. Require branch campuses to operate two years without financial aid before certifying eligibility for the branch.
5. Provide guarantee agencies additional discretion to deny schools eligibility where there is evidence of lack of financial stability or poor administration.

During the forthcoming reauthorization of the Title IV federal student aid programs many other issues will be addressed to strengthen the federal programs of student aid.

I hope we will address the much broader issues of:

a) the growing debt-burden of students and how to increase funding of the Pell Grant program
b) innovative ways to simplify the overall delivery of student financial aid to remove the barriers of complexity and forms proliferation that exists today

c) simplification and standardization of the school eligibility process similar to the Veteran Affairs programs: accreditation is simply not a part of the approval process for federal funds. d) minimum federal standards for licensing schools to be followed by all states. States failing to meet these standards would run the risk of loss of all federal student aid to their schools.

e) a fair evaluation and assessment of new and innovative financing methods for higher education such as the Senator's own National Service proposal introduced earlier this year.

As a member of the Advisory Committee on Student Financial Assistance, it will be my goal to work toward a thorough review of all of these important issues during Reauthorization.

In closing, let me again emphasize that the GSL program is a viable and effective way to deliver aid to students. It is unfair to the thousands of good schools and lenders who participate in the GSLP to refer to it as a national scandal in the making. And it has absolutely no similarity to the S & L crisis it is so often incorrectly compared to.

It is a program that needs attention and needs swift and decisive Congressional action in order to protect its integrity and restore the public's and the policymakers' confidence in it. In our zeal to abolish fraud and abuse from the GSLP, let us be careful not to "Throw the baby out with the bath water!" The young people we serve are depending on us to do what must be done to guarantee they have a future and the opportunity to pursue it.

Thank you.

Hearing Follow-up Questions
Joe L. McCormick
President
Texas Guaranteed Student Loan Corporation
September 27, 1990

Q. What more can States do to protect the Title IV interests of students and the American taxpayer? For example, should States increase the amount of policing they do regarding proprietary schools and, if not, who should perform such an added enforcement role?

A. Guarantee agencies should be provided with flexibility and authority to deny schools eligibility to participate in the GSLP with cases where there exits evidence of lack of financial stability or poor administration.

Q. In your view, is the system, as currently constituted, capable of keeping up with the fast-paced, quickly changing, and profit-driven proprietary school industry and, if not, what more should the U.S. Department of Education or the guarantee agencies do?

A. The Congress should simplify the student financial aid delivery system and standardize the school eligibility process similar to that used for the Veteran Affairs Programs. Accreditation is not a part of the approval process for federal funds and does not play the same role with respect to proprietary schools as it does with respect to traditional colleges and universities.

Requiring all schools to offer programs of study at a minimum of 600 clock hours and providing strong penalties for "course stretching" would also help in this regard.

Hearing Follow-up Questions
Joe L. McCormick
President
Texas Guaranteed Student Loan Corporation
September 27, 1990

Q. From your perspective, how would you rate the performance of the U.S. Education Department regarding its administration of the Title IV program?

A. The Department of Education has not taken the lead with developing, proposing, or advocating policies which result in strong effective coordination among the organizations responsible for oversight of proprietary schools and federal student financial aid programs.

Q. One of the major problems cited regarding present proprietary school practices is branching. From your perspective, what should be done about branching, and should any one part of the triad be more responsible than another?

A. Prior to being certified for eligibility for participation in Title IV programs, branch campuses should be required to operate for two years without participating with in federal student financial assistance programs.

Q. Do you favor the establishment of Federal standards regarding the licensing of proprietary schools?

A. Minimum federal standards for licensing schools should be established and all states should be required to adhere to them. States failing to do so would run the risk of losing all federal student financial assistance to their schools.

Page 2 of 3

Hearing Follow-up Questions
Joe L. McCormick
Executive Director
Texas Guaranteed Student Loan Corporation
September 27, 1990

Q. Why do we need 50+ separate guarantee agencies? Why can't it be a much smaller number? Aren't they duplicative, since many of them operate in a number of States?

A. The partnership among the federal government, guarantors, lenders, and schools has made such a large delivery system possible. If the guaranteed student loan program evolves toward participation by only a few national lenders, secondary markets, and guarantors, which places the major bulk of the loan and insurance volume in a small group, the risk to the Federal Government of incurring higher liabilities, compliance problems, or bailout would greatly increase. Widescale participation provides the advantage of risk diversification for the Federal Government. Competition, diversity and flexibility, all of which affect the quality of customer service, would not be present if a single guarantor or only a few large guarantors were administering the guaranteed student loan program.

STAFF STATEMENT
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
CONCERNING
THE CULINARY SCHOOL OF WASHINGTON
OCTOBER 5, 1990

* * *

I. INTRODUCTION

Mr. Chairman and Members of the Subcommittee, as you will recall from last month's testimony, the staff presented a case study on the Culinary School of Washington and it's owners, Barkev and Mary Ann Kibarian. This analysis revealed that the "triad" of state licensing, accreditation and ultimately the Department of Education fell short of effectively and promptly overseeing the activities of the Culinary School. This allowed the Kibarians to take advantage of Title IV programs for eight years during which the Department's Inspector General repeatedly identified patterns of misrepresentations to government agencies and noncompliance with program requirements by the school.

Subsequent to the last hearing, the staff has uncovered additional information that may be of relevance to the Subcommittee's review of the Culinary School of Washington as well as to Mr. Kibarian's appearance here this morning.

II. REFUND CHECKS

As you recall, the Culinary School was subject to a number of criminal investigations from 1984 to 1988. The major investigation was conducted by the Inspector General and began on April 19, 1985. This investigation was closed by the Inspector General on October 3, 1988 because "criminal intent would be very difficult to prove."

However, a subsequent review on May 21, 1990 by an Inspector General Inspection Team disclosed that the school was understating, not making or making untimely refunds of student loans. The report concluded that this was a persistent problem and in an apparent effort by the school to delay and conceal it, checks were backdated, stop-payment orders were made, and inaccurate records were prepared.

Since the last hearing, the former Culinary School comptroller, Hamid Tabatabi, has provided an statement to the Subcomittee staff confirming this information. I ask that Mr. Tabatabi's statement be entered as an exhibit at this time. In interviews, Mr. Tabatabai told the staff that:

> The School was having cash flow problems and very few refund checks were issued between January and June 1986, this led to a temporary suspension by the Higher Education Assistance Foundation (HEAF) in June 1986, but

> the school managed to obtain student loans from Wisconsin Higher Education.
>
> However because of the committment to HEAF, the school was unable to make any refunds on the loans obtained from Wisconsin. Dr. Kibarian was fully aware of the fact, but payments to HEAF had a top priority.
>
> The school started participating in the Supplemental Loans for Students (SLS) program in March or April 1987 which helped its liquidity and facilitated a lump sum payment on the late refunds to Wisconsin Higher Education.
>
> In early 1988, I was instructed by Dr. Kibarian to ensure that all the refund checks were prepared within the 30 day time limit even if I did not receive the list of drop outs until after the 30 days. In order to do this I was instructed to backdate the refund checks so the payments appeared to be made within the 30 days.
>
> In November 1989, Dr. Kibarian asked me to provide him with a list of the refund checks which had not cleared the bank so a stop payment could be placed on them as the money was needed for other purposes, apparently to pay for the legal fees of Dr. Kibarian's attorney.

In his testimony on September 13th, Mr. Sopko stated that HEAF constantly complained that the Culinary School was not making timely repayments on the approximately $500,000 in refunds they owed from 1986.

The comptroller's statement indicates that Mr. Kibarian used the money he was supposed to pay in refunds to the Wisconsin Higher Education Fund (Wisconsin) to pay off the refunds he owed to HEAF. He then used the Supplemental Loans for Students (SLS) loans to pay Wisconsin while using other refund money to pay his mounting legal fees. It appears he was "robbing Peter to pay Paul" and that only when Mr. Kibarian ran out of "banks to rob" was he forced to declare bankruptcy.

III. CHRONOLOGY OF ACTIVITIES SURROUNDING THE UNIVERSITY OF BRIDGEPORT AND MR. KIBARIAN'S HEALTH

As you indicated Mr. Chairman, Mr. Kibarian was excused from testifying on September 13th because of alleged medical problems. Mr. Kibarian's physician recommended he avoid stressful situations such as testifying before the Subcommittee. The staff interviewed Mr. Kibarian's physician and asked if he was aware that Mr. Kibarian was currently involved in starting a business venture and if this was considered a stressful situation. The physician did not directly respond to staff questioning but merely restated that Mr. Kibarian should avoid heavy stress.

To recap the facts as we know it concerning Mr. Kibarian's health, we have learned that on May 13, 1990, Mr. Kibarian was examined by the Valley Hospital in New Jersey complaining of, among other things, difficulty in speaking clearly. Mr. Kibarian then was treated and released.

* On May 15, Mr. Kibarian was examined by his personal physician because of a weakness to his face. He was subsequently examined by a neurologist who agreed that Mr. Kibarian probably had suffered a small stroke.

* On May 17, Mr. Kibarian was again examined by his physician who could not detect any further symptoms and noted great improvement in his condition.

* The staff previously reported that during the summer of 1990, Mr. Kibarian commenced a nation-wide mass mailing proposing to establish a new culinary school. At that time the staff concluded there was no evidence that anyone has taken the Kibarians up on their proposals. However, the staff has now discovered that the University of Bridgeport in Connecticut seriously responded to this offer.

* The staff interviewed the provost and vice president of the University of Bridgeport, Dr. Edwin Eigel, who said he met Mr. Kibarian on May 27, 1990 when Mr. Kibarian visited the university campus to discuss his offer to create a chef's program at the university. This was ten days after his visit with his physician and less than 2 weeks after his alleged "stroke-like" symptoms.

* Dr. Eigel was surprised when the Staff informed him that the Culinary School of Washington was bankrupt. He was totally unaware that the Culinary School had lost its license to operate in the State of Virginia and the District of Columbia, that they had lost their accreditation and their eligibility for Title IV funding. Apparently, the Kibarians had never informed the Bridgeport officials of these facts.

* Dr. Eigel of the University of Bridgeport has provided a letter dated May 30, 1990 he received from Mr. Kibarian. In the letter Mr. Kibarian proposed a meeting on June 1, 1990 to finalize an initial agreement to initiate "the program" on June 4, 1990. He asked for office space at the University to begin his work on June 1, 1990, and to continue throughout the next week. Mr. Kibarian mentioned that three other employees will join him "in a few days" to recruit for a class starting on July 16th. The remaining staff, he said, would arrive on June 6, 1990. Mr. Kibarian included a signature line for Dr. Eigel which indicated the agreement would be dated sometime in May of 1990.

* On June 18, 1990 Mr. Kibarian wrote to Dr. Janet Greenwood, the President of the University of Bridgeport. In the letter, Mr. Kibarian refers to spending a week in a dormitory at the University. Dr. Eigel confirmed that he met with both Mr. and

Mrs. Kibarian on June 1, 1990 and that they remained at the university throughout the following week discussing their proposal to set up a chef's school at the university.

In this letter, Mr. Kibarian states he has the names of 300 prospective students here in Washington that "would be excited at the opportunity of earning an associate degree from a four-year university." The staff questions how Mr. Kibarian was able to identify 300 people interested in earning an associate degree from a four-year university. This creates the possibility that he is actively recruiting prospective students in Washington. If Mr. Kibarian did recruit prospective students to attend the University of Bridgeport, he may have done so illegally.

As you will recall from our last hearing, Mr. Kibarian is currently not licensed to recruit in the District or in Virginia. Moreover, Dr. Eigel said that he warned Mr. Kibarian that he could not recruit any students or send out any advertisements until he was licensed to do so by the state of Connecticut.

It is also evident in this letter, that Mr. Kibarian continues to view his proposal more as a money-making scheme than as an educational venture. In the letter, Mr. Kibarian spends little time concerning educational issues but talks extensively of revenue being plowed back to build a sales force and of eliminating the university's $12.5 million debt by creating the new culinary school.

He suggests as one source of revenue that the university operate food carts which "would be roaming the building, dormitories and offices" with "a cup of capuccino a la Viennese with fresh cream, jimmies or chocolate in the coffee." He claims that a cart offering miniature pizzas, milk and desirable items would be "stampeded". He also proposes that a "full fare delivery can also reach out to (the cities of) Fairfield, Bridgeport, firms, and offices and also ships and yachts." In order to save on labor and management costs, Mr. Kibarian promises to operate the carts through an "internship and apprenticeship program".

His proposal raises the issue of whether Mr. Kibarian is suggesting that his new students work for him and the University for free or at below minimum wages. Apparently such an arrangement was previously utilized by the Culinary School and the Blue Plains Sewage Treatment Plant which caused one former school official to complain that it amounted to "slave-labor".

* Dr. Greenwood received another letter from Mr. Kibarian on July 19, 1990 expressing gratitude for meeting with both Mrs. Kibarian and him. Mr. Kibarian also proposed a marketing scheme where they would send a letter "to random selected leads not being worked and drop-outs." The idea of this notice, according to Mr. Kibarian, was to measure interest in a proposed program.

* On September 6, 1990, Mr. and Mrs. Kibarian were each served a subpoena to testify before this Subcommittee on September 13, 1990.

* Within 24 hours Mr. Kibarian reported that the stroke-like symptoms had reoccurred. His physician could not demonstrate any objective findings. In speaking with Mr. Kibarian's attorney, Stephen Matthews, the physician was told that Mr. Kibarian had been slurring his speech. Mr. Kibarian's physician referred this matter to the neurologist who did not feel any further testing was necessary.

* When the staff spoke with the physician on September 11, 1990, we asked if he was aware that Mr. Kibarian was currently involved in trying to start a business and if he considered this to be a stressful situation. The physician said that Mr. Kibarian should avoid heavy stress and he should be allowed to rest for several weeks to make sure there were no further symptoms of a stroke.

* In spite of this recommendation to rest for several weeks, on September 18, 1990, Mr. Kibarian sent the University of Bridgeport another proposal including that the school provide living arrangements for Mr. and Mrs. Kibarian to initiate the program and begin to recruit students and faculty. In that letter Mr. Kibarian proposed to start work on October 1, 1990. He also agreed to travel to Bridgeport to finalize the contract and scheduled a meeting with university officials on September 21, 1990, -- just 8 days after he had been originally scheduled to testify before this Subcommittee but could not due to his desire to avoid "stress".

* On September 19th, the day after Mr. Kibarian sent this proposal, his attorney wrote to the Subcommittee reiterating Mr. Kibarian's doctor's request that in light of his medical condition, "[f]or the immediate future...[Mr. Kibarian] should not be placed in any stressful situation."

In addition, the staff has also learned that Mr. Kibarian is apparently trying to find a new guarantee agency to back his student loans so he can restart a culinary school. Staff from a private agency dealing with guarantee agencies, told the Subcommittee staff that on August 7, 1990, Mr. Kibarian called and asked for a directory of all the guarantee agencies nationwide. This individual sent him a somewhat outdated federal directory listing most of the guarantee agencies but not necessarily the proper addresses or phone numbers. This individual stated they were suspicious of Mr. Kibarian's request because, as they put it, the "word on the street" was that one had to be careful when dealing with Mr. Kibarian.

This does not appear to be the first time Mr. Kibarian has shown interest in guarantee agencies. Nancy Widerspan, the Director of the Nebraska Student Loan Program, told the

Subcommittee that she recalled a meeting three years ago with Mr. Kibarian and one other person from the Culinary School of Washington. The purpose of the meeting was to discuss Mr. Kibarian's interest in starting his own guarantee agency. Ms. Widerspan did not pursue this matter further and is unaware of what, if anything, Mr. Kibarian did in regards to this desire of his.

IV. CONCLUSION

In sum, since our last hearing on the Culinary School, the staff has developed further information concerning potentially fraudulent acts by the Kibarians -- both while with the Culinary School and since its recent demise. Through statements of the former comptroller, the staff has confirmed that Mr. Kibarian repeatedly manipulated the refund checks that the school was required by both HEAF and the Department of Education to make to students who had withdrawn from the school. Mr. Kibarian's actions became so egregious that the comptroller finally resigned in disgust.

Since the school's demise both Mr. and Mrs. Kibarian have attempted to reestablish the culinary school apparently without advising the University of Bridgeport or other individuals of the true nature of the operations of the Culinary School of Washington. Their activities both predate the last hearing and continued at least up to Friday, September 21, 1990 -- a period during which Mr. Kibarian's health allegedly could not withstand the stress of testifying before this Subcommittee.

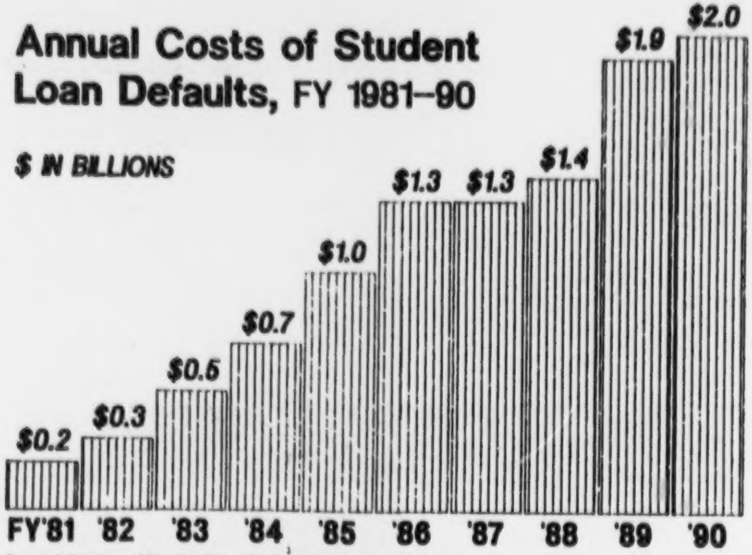
Mr. Chairman, that concludes our statement, we would be happy to answer any questions you may have.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 1

Annual Costs of Student Loan Defaults, FY 1981–90

$ IN BILLIONS



Source: U.S. Department of Education, Office of Planning, Budget and Evaluation.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 2

FY 1987 Cohort Default Rate by Type of Institution

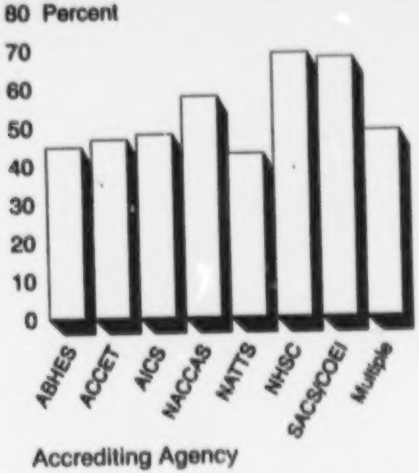
Type of Institution	*Default Rate*
Proprietary	**33%**
Public two–year	**18%**
Private two–year	**14%**
Public four–year	**7%**
Private four–year	**7%**
All institutions	**17%**

Source: U.S. Department of Education, Office of Planning, Budget and Evaluation, based on data provided by the guarantee agencies.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 5

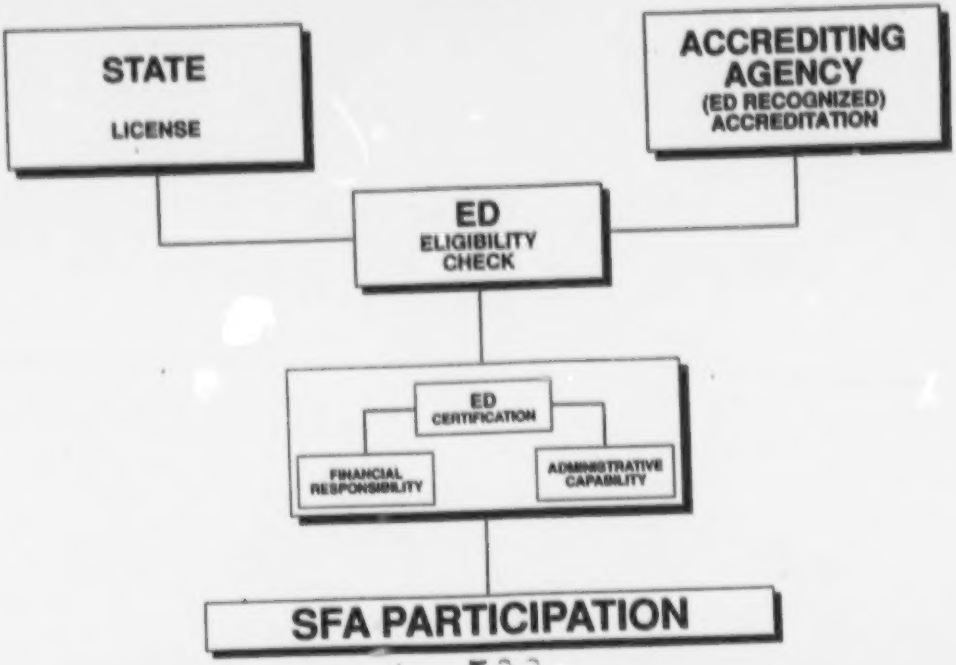
GAO Many Schools May be Subject to Default Management Plans



Senate Permanent Subcommittee
on Investigations

EXHIBIT # 6

TRIAD



STATE

LICENSE

ACCREDITING AGENCY

(ED RECOGNIZED)
ACCREDITATION

ED

ELIGIBILITY
CHECK

ED
CERTIFICATION

FINANCIAL
RESPONSIBILITY

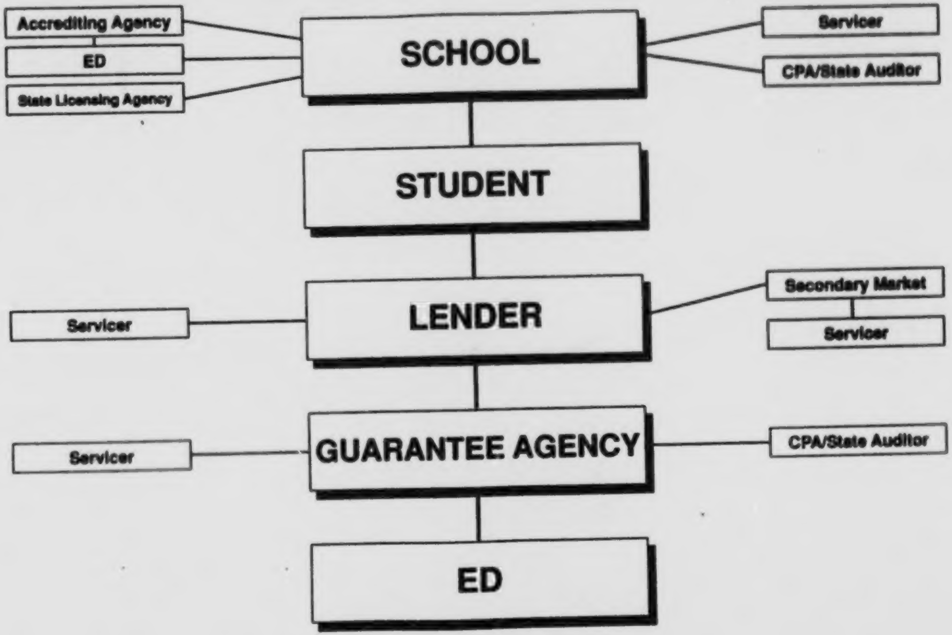
ADMINISTRATIVE
CAPABILITY

SFA PARTICIPATION

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 7

SFA PROGRAM PARTICIPANTS


Accrediting Agency
ED
State Licensing Agency
SCHOOL
Servicer
CPA/State Auditor
STUDENT
Servicer
LENDER
Secondary Market
Servicer
Servicer
GUARANTEE AGENCY
CPA/State Auditor
ED

Senate Permanent Subcommittee on Investigations

EXHIBIT # 9

Collier, Shannon & Scott

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September 18, 1990

DELIVERY BY HAND

Eleanore J. Hill, Esq.
Chief Counsel/Staff Director, Majority
Permanent Subcommittee on
Investigations
Committee on Governmental Affairs
100 Russell Senate Office Building
Washington, D.C. 20510

Re: Proprietary Truck Driving Schools Certified by PTDIA

Dear Ms. Hill:

Thank you for taking time to meet with me and representatives of the Association of Certified Trucking Schools ("ACTS") regarding the issue of government loans to students attending proprietary truck driver training schools. We hope our meeting helped the Subcommittee understand the important role short courses offered by proprietary schools engaged in commercial driver training are now playing in trying to solve the critical shortage of drivers in the trucking industry. As we mentioned during our meeting, the need for drivers is expected to be 350,000 annually for the next several years. In addition, I hope you found our schools' experiences with lending institutions useful for your hearings and report. We again urge the Subcommittee to consider requiring lenders to maintain a mixed portfolio of loans to proprietary and non-proprietary schools. We also encourage the Subcommittee to consider further the certification concept that we discussed in our meeting.

During our meeting you requested additional information regarding the certification process in the truck driver training industry and the role of the Professional

Truck Driver Institute of America ("PTDIA"). We also understand that the subject of PTDIA certification was discussed by the staff and Senator Nunn at the Subcommittee hearings on September 12 and 13. It is our belief that the certification concept, as exemplified by PTDIA, can play an important role in determining institutional eligibility for student loan programs irrespective of individual school default rate experience. Programmatic certification of compliance with industry standards for course content and training practices, coupled with effective monitoring of business practices, can help to curb some of the abuses that have occurred in the past.

We also wanted to explain further the Professional Truck Driver Institute of America. PTDIA is an independent, not-for-profit organization established in 1985. It is supported by a broad spectrum of truck and equipment manufacturers and suppliers, motor carriers, insurance companies, drivers and trade associations. The training schools themselves are prohibited from providing financial support to PTDIA. Since its inception the Institute has sought to advance truck driver training, safety and professionalism to the highest level possible.

The content of courses and the method of training (which includes proprietary schools, public education institutions, in-house motor carrier programs, etc.) are independently evaluated by PTDIA at the request of the training facility. The evaluation is conducted through a rigorous on-site inspection and review of objective criteria which conform to curriculum standards and training practices established by the Federal Highway Administration ("FHWA") and which are recognized by the trucking industry itself. The FHWA guidelines were adapted by PTDIA with representatives of the trucking, insurance, driver training, and supplier industries. A copy of a "checklist" containing the standards by which each school is evaluated, as well as a larger document containing the specific certification criteria are enclosed. Currently, courses at 34 schools in 21 states have been certified, with another 11 being considered for certification in October. Also included here is a current list of the PTDIA-certified schools.

The guidelines permit PTDIA to evaluate and certify the practices, curricula and methods of commercial driver training by schools in the United States. We know of no similar program conducted by any of the accrediting bodies in any vocational area, nor are we aware of other industries which have embraced the certification concept to ensure the highest quality of entry-level employees. We encourage the Subcommittee to consider further the certification concept as an alternative to the present accreditation program.

The importance and credibility of PTDIA certification have been recognized by many private industry and government organizations. For example, in a July 1990 Public Notice ("Facts for Consumers"), the Federal Trade Commission advised prospective students seeking a career in commercial driving to first contact PTDIA to determine whether the school they were considering attending had been evaluated by PTDIA, and whether the school met the FHWA guidelines.

In sum, we believe the independent certification concept as implemented by PTDIA has merit for determining institutions which should be eligible for government educational loans or grant programs. This is especially true in industries where there is concern about the quality and value of training currently being provided to students. Course and curricula certification patterned after the PTDIA example accomplishes what accreditation cannot; it can help raise the overall quality of training of students for entry into the relevant industry, thereby benefiting students and ensuring that any government funds are better spent.

Finally, Grace McPhearson asked whether the Department of Education ("DOE") and the Department of Labor ("DOL") were aware of PTDIA certification. The DOE is aware of PTDIA certification as a result of PTDIA's contacts with the Assistant Secretary for Post-Secondary Education last year. DOE did not evidence interest in PTDIA certification. The DOL was briefed on PTDIA certification but indicated there were no industry-specific DOL grant programs which seemed suitable to meet the trucking industry's driver training needs.

We appreciate the attention that you and your staff have given to us thus far, and we look forward to working with you and Senator Nunn as you continue your investigation. Following the conclusion of the current hearings I will contact you to discuss this matter further. If you have any questions, please do not hesitate to call.

Best regards.

Sincerely,

K. Michael O'Connell /gc

K. Michael O'Connell
Counsel to the Professional
Truck Driver Institute of America
and the Association of Certified
Trucking Schools

cc: Daniel F. Rinzel, Esq.
Chief Counsel, Minority
Ms. Grace T. McPhearson
Investigator

Enclosures

PROFESSIONAL TRUCK DRIVER INSTITUTE OF AMERICA

8788 Elk Grove Blvd., Suite 20
Elk Grove, CA 95624
(916) 686-5146

SCHOOLS WITH PTDIA CERTIFIED COURSES LISTED BY STATE AS OF JULY 29, 1990

The following entry level driver training courses are certified by PTDIA as of July 29, 1990. These schools may offer other courses that have not been certified by PTDIA. If you have any questions regarding the PTDIA status of a school, please call (916) 686-5146. The schools and campus locations are as follows:

ALABAMA

Diesel Driving Academy 3295 Wetumpka Highway Montgomery, AL 36110 1-800-551-8900	#880030501 4 Week #880030502 8 Week

ARIZONA

Swift Transportation 5601 West Mohave Phoenix, AZ 85031 (602) 269-9700	#890020001 Day #890020002 Evening

ARKANSAS

Diesel Driving Academy 2300 Redmond Road, Bldg.B Jacksonville, AR 72076 1-800-551-8900	#880030301 8 Week #880030302 4 Week

CALIFORNIA

Dootson Truck School 11625 Clark Street Arcadia, CA 91006 (818) 303-1900	#900050001 7 Week FT #900050002 11 Week PT
U.S. Truck Driving School 924 Rialto Avenue Rialto, CA 92376 (714) 875-8000	#880070403 302 Hr. FT 6 Week #880070404 302 Hr. PT 12 Week

California (continued)

Truck Driving Academy
5711 Florin-Perkins Road
Sacramento, CA 95828
(916) 381-2285

#890060001 Day
#890060002 Evening

MTA School
2077 Pike Avenue
San Leandro, CA 94577
(415) 357-1550

#900040301 Weekday
#900040302 Weekend

COLORADO

U.S. Truck Driving School
8150 W. 48th Avenue
Wheat Ridge, CO 80033-311
1-800-727-7364

#880070103 302 Hr. FT 6 Week
#880070104 302 Hr. PT 12 Week

U.S. Truck Driving School
19825 Wigwam Road
Exit 119, I-25
Midway, CO 81008
(719) 382-3000

#880070203 302 Hr. FT 6 Week
#880070204 302 Hr. PT 12 Week

ILLINOIS

Chicago Truck Driving School
2235 West 74th Street
Chicago, IL 60636
1-800-36-LEARN

#880020001 320 Hour

(EXPIRES 9/15/90)

American Transportation Education Centers
3151 W. Chain of Rocks Road
Granite City, IL 62040
1-800-332-1558

#880080201 Day
#880080202 Weekend

INDIANA

Cummins Professional Training Center
6555 E. 30th Street
Indianapolis, IN 46219
1-800-333-9983

#880090002 Evening
#880090003 Weekend
#880090004 Day

Indiana (continued)

North American Van Lines #890050001 27 Day
5001 U.S. Highway 30 West
P.O. Box 988
Fort Wayne, IN 46801
(219) 429-3114

Commercial Driver Institute #890080101 304 Hour
24645 State Road 23
P.O. Box 2853
South Bend, IN 46680
1-800-832-7364

MTA School #900040201 Weekday
325 N. Taylor Road #900040202 Weekend
Garrett, IN 46738
(219) 357-5146

LOUISIANA

Diesel Driving Academy #880030101 8 Week
3523 Greenwood Road #880030102 4 Week
Shreveport, LA 71109
1-800-551-8900

Diesel Driving Academy #880030201 8 Week
8136 Airline Highway #880030202 4 Week
Baton Rouge, LA 70815
1-800-551-8900

MICHIGAN

American Truck Driving School #880010201 PTD 100
150 S. Michigan Avenue #880010202 PTD 200
Coldwater, MI 49036
1-800-999-8012 (EXPIRES 9/15/90)

Professional Driver Institute #890010001 8 Week
18266 W. US 12
P.O. Box 276
New Buffalo, MI 49117
1-800-222-1782

Page 4

Michigan (continued)

Eaton Roadranger Training Institute 2400 N. Burdick Street Kalamazoo, MI 49007 1-800-325-6733	#890070001 8 Wk FT #890070002 16 Wk PT

MISSISSIPPI

Diesel Driving Academy 4725 McRaven Road Jackson, MS 39209 1-800-551-8900	#880030401 8 Week #880030402 4 Week

MISSOURI

American Transportation Education Centers #7 Industrial Drive Crystal City, MO 63019 1-800-367-1303	#880080101 Day #880080102 Weekend

NEBRASKA

Crete Carrier Corporation 400 NW 56th Street Lincoln, NE 68528 1-800-888-4095	#880050001 Day

NEW MEXICO

Albuquerque Tech/Voc Institute 525 Buena Vista SE Albuquerque, NM 87106 (505) 768-0703	#900010001
Tucumcari Area Vocational School 824 West Hines Tucumcari, NM 88401 (505) 461-4413	#890110001

NEW YORK

Commercial Driver Training, Inc. 600 Patton Avenue West Babylon, NY 11704 (516) 249-1330	#890100001 FT #890100002 PT #890100003 PT #890100004 PT

NORTH CAROLINA

Carretta Trucking, Inc. (in partnership with Isothermal Community College) P.O. Box 727 Forest City, NC 28043 (704) 453-0771	#900020001 FT #900020002 PT

OHIO

Pro Drive Mid-American Training Center 171 Riverside Drive Newark, OH 43055 1-800-888-3128	#890090202 Extended #890090203 4 Week Resident Training

OKLAHOMA

U.S. Truck Driving School 7500 New Sapula Road Tulsa, OK 74131 1-800-234-7364	#880070303 302 Hr. FT 6 Week #880070304 302 Hr. PT 12 Week
Oklahoma Vo/Tech - Central 3 C.T. Circle Drumright, OK 74030 (918) 352-2551	#900030001

PENNSYLVANIA

MTA School 1180 Zeager Road Elizabethtown, PA 17022 (717) 367-1555	#900040103 Weekday #900040104 Weekend

TEXAS

American Truck Driving School
Highway 339 South
Prairie Hill, TX 76678
1-800-888-3664

#880010101 PTD 100

(EXPIRES 9/15/90)

WASHINGTON

Commercial Training Services
24325 Pacific Highway South
Des Moines, WA 98198
(206) 824-3970

#880100201 PT
#880100202 PT

(EXPIRES 9/15/90)

WISCONSIN

Pro Drive
American Training Center
13629 Highway K
Franksville, WI 53126
1-800-888-2128

#890090102 Extended

PTDIA certified courses are offered at 34 schools in 21 states.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 10

ACCREDITING AGENCIES' FINANCIAL STATEMENTS
ANALYSIS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

With the assistance of the Office of Inspector General, U.S. Department of Education, an analysis was conducted of the accrediting agencies' financial statements, which were submitted pursuant to the Subcommittee's May, 1990 subpoenas. This analysis shows that each accrediting agency experienced significant growth over the five-year period, 1985-1989, as reflected by the increase in their revenues. For 1985, the combined revenues of the seven accrediting agencies involved in our investigation was $8.5 million; by 1989, this amount doubled to $17 million. The percent increase in revenues ranged from a low of 41% (for ABHES) to a high of 590% for ACCET. Membership dues accounted for the majority of the revenue increases.

ACCREDITING BUREAU OF HEALTH EDUCATION SCHOOLS (ABHES)

REVENUE:	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
American Medical Technologists	58,974	49,430	0	0	0
Application and Renewal Fees	161,750	204,500	248,651	300,733	298,600
Workshop Income - Net	470	2,811	2,431	1,272	2,688
Appeal Proceedings Income - Net	0	0	546	431	(159)
School Inspection Income - Net	(182)	(266)	2,867	1,793	723
Interest	0	7,931	8,719	10,779	10,356
Total Revenue	221,012	264,406	263,214	315,008	312,208
OPERATING EXPENSES:					
Administrative	104,973	114,236	140,699	153,701	136,881
General Office	22,544	40,428	31,729	33,190	35,687
Printing	6,050	9,392	6,163	11,607	4,229
Other	61,881	61,261	70,256	93,148	91,094
Contingency	6,605	5,755	8,629	0	0
Total Operating Expenses	202,053	231,072	257,476	291,646	267,891
Net Income	18,959	33,334	5,738	23,162	44,317
BUREAU EQUITY, OCTOBER 1	20,888	39,847	73,181	78,919	102,081
TRANSFER OF FUNDS TO THE AMERICAN MEDICAL TECHNOLOGISTS					(52,775)
BUREAU EQUITY, SEPTEMBER 30	39,847	73,181	78,919	102,081	93,623

ACCREDITING COUNCIL FOR CONTINUING EDUCATION AND TRAINING (ACCET)

Revenues:	1984	1985	1986	1987	1988	1989
Application fees	2,550	23,100	38,830	59,150	113,600	140,170
Examining fees	7,225	47,840	136,750	311,422	544,779	519,314
Special assessment	0	0	0	0	0	528,840
Sustaining fees	28,319	191,501	242,640	305,184	404,647	490,985
Processing fees	0	0	0	32,700	136,641	146,451
Conference fees	0	16,695	45,700	61,959	139,190	0
Other income	637	2,496	5,600	4,596	375	6,000
Interest	320	1,734	1,959	1,159	7,288	6,802
Workshop/Seminar	0	0	0	0	114,378	115,560
Total Revenues	39,051	283,366	471,479	776,170	1,460,898	1,954,122
Expenditures:						
Payroll	20,001	95,408	118,648	210,334	441,014	507,369
Taxes/Benefits	2,687	18,444	21,358	31,980	87,404	77,578
Board of Directors	4,360	7,951	5,386	12,588	28,965	22,829
Accrediting Commission	3,762	14,900	11,809	25,053	123,736	97,750
Examination Teams	6,887	62,321	176,620	303,548	526,655	445,290
Legal and Accounting	491	2,926	1,916	8,073	16,459	96,801
Staff Travel	1,243	5,243	4,065	7,084	16,084	43,161
Rent	2,081	9,324	15,220	18,420	33,326	49,408
Telephone	1,510	8,973	12,134	17,900	26,046	41,562
Printing, Supplies, Postage	2,266	23,325	32,965	43,262	50,325	44,181
Insurance	97	2,408	1,548	6,118	17,880	19,352
Equipment leasing	0	0	4,959	10,029	15,445	25,318
Annual conference	0	15,235	14,316	45,834	123,755	31,246
Miscellaneuos	3,763	12,646	25,959	8,682	6,255	9,175
Depreciation	384	0	0	1,592	5,647	21,856
Reserve	0	0	0	0	73,045	(73,045)
Workshop/Seminar	0	0	0	0	83,511	91,441
Administrative	0	0	0	0	0	24,694
Total Expenditures	49,532	279,102	446,903	750,497	1,646,554	1,575,764
Revenues Over (Under) Expenditures	(10,481)	4,264	24,576	25,673	(185,656)	378,358
Fund Balance as of January 1	0	0	0	39,966	65,639	(120,017)
Fund Balance as of December 31	0	0	0	65,639	(120,017)	258,341

Note: Effective January 1, 1987, ACCET changed from the Cash Basis to the Accrual Basis of Accounting.

ASSOCIATION OF INDEPENDENT COLLEGES AND SCHOOLS (AICS)

Revenues:	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
Membership fees	2,200,663	1,990,198	2,597,411	2,851,956	2,878,898
Education programs	80,556	182,756	308,621	253,873	262,468
Convention	(29,407)	473,848	418,342	536,352	451,878
Publications	(26,071)	59,001	65,421	66,724	81,011
Sales	20,674	40,892	62,506	46,253	24,529
Resource center		52,018	62,659	50,756	45,112
Accreditation program & devel.		9,519	11,532	14,243	7,069
Investment income	241,249	209,281	208,999	261,602	219,573
Insurance reimbursement			67,164	62,115	29,908
CPAt revenue				24435	51259
Miscellaneous		1,445		50,266	3,745
Total revenue	2,467,664	3,018,958	3,802,655	4,218,575	4,055,450
Expenses:					
Education programs		188,117	280,169	240,820	226,000
Convention		465,756	325,458	649,439	444,573
Publications		68,089	59,525	67,680	95,947
Sales		32,265	80,546	36,939	33,031
Resource center		52,018	62,659	89,069	84,539
Accreditation program & devel.	195,403	175,792	242,597	268,356	267,094
Personnel expenses			1,051,646	1,301,038	1,468,119
Executive office	1,155,211	1,192,146	588,732	468,804	451,084
Officer' expenses	17,383	15,734	16,045		
Board of Directors & commts.				120,500	186,600
General administrative	293,109	383,758	315,793	377,871	374,242
Professional services and fees	182,486	165,516	184,003	241,841	279,130
Membership services program	131,937	88,710	93,103	158,981	104,069
Public relations	112,221	76,148			
Special events and projects			29,288	40,608	45,178
Legal expenses	10,958	41,970	81,926	152,843	157,959
Total expenses	2,098,708	2,946,019	3,391,490	4,214,789	4,197,565
Excess of revenues over expenses as of Fiscal Year ended, June 30	368,956	72,939	411,165	3,786	(142,115)

NATIONAL ACCREDITING COMMISSION OF COSMETOLOGY ARTS AND SCIENCES, INC. (NACCAS)

Revenue:	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
Sustaining fees	747,350	783,171	838,650	1,028,780	1,098,710
Application and accreditation fees	471,050	514,050	585,401	734,195	771,748
Visitation fees	218,800			633,735	782,003
Interest and dividend income	107,424	90,806	73,777	92,435	126,288
Annual meeting			61,215		
Workshops		72,206	70,315	94,026	84,502
Miscellaneous fees income	41,502	53,370	59,371	34,269	221,517
Total revenue	1,586,126	1,513,603	1,688,729	2,617,440	3,084,768
Expenses:					
Salaries and benefits	464,471	505,892	593,624	703,600	907,557
Commission meetings	135,619	133,384	165,962	155,530	206,722
Committee meetings	134,760	138,046	141,690	116,051	127,581
Miscellaneous meetings				15,440	34,313
Staff and commissioner training	7,298	10,532	7,992	14,289	16,948
Printing / Publication	29,053	42,175	46,230	69,357	78,657
Postage				53,755	60,184
Legal services	62,900	107,764	75,428	105,511	120,713
Accounting services	42,417	76,870	82,957	118,000	69,128
Computer consulting and service	1,375	513	6,504	32,434	48,743
Rent	111,828	132,322	153,342	160,677	165,980
Depreciation and amortization	49,678	26,725	23,363	26,873	34,387
Equipment maintenance		39,550	38,249	62,486	73,712
Office supplies and expenses	138,493	128,175	136,627	103,113	99,966
Miscellaneous	87,277	73,328	53,472	30,396	35,040
Loss on disposal of assets	204				29,800
Special projects				22,576	26,234
Workshops	7,714	53,959	77,100	90,486	60,663
Annual meeting			130,073		
School visit expenses	245,547			647,517	849,238
Total expenses	1,518,634	1,469,236	1,732,613	2,528,091	3,045,666
Excess of revenue over expenses	67,492	44,367	(43,884)	89,349	39,102
Fund balance, beginning of year, July 1	618,984	686,476	730,843	686,959	776,308
Fund balance, end of year, June 30	686,476	730,843	686,959	776,308	815,410

NATIONAL HOME STUDY COUNCIL (NHSC)

	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
INCOME:					
Dues of members	451,242	528,319	592,004	653,379	669,333
Accreditation Fees	67,527	74,883	77,665	84,068	85,535
Accreditation Application Fees	2,100	2,850	3,000	2,850	4,050
Accreditation Examining Visits	99,350	102,800	109,413	130,796	194,271
Listing Fees	16,250	21,625	31,125	37,125	52,462
Charge on Late Dues Payments	3,722	3,278	2,094	965	2,410
Income from Investments	32,028	33,449	31,821	38,933	39,167
Beat the Prime Income	1,000	27,515	20,500	6,650	26,001
Conferences	5,000	5,000	10,000	22,087	5,000
TOTAL INCOME	678,219	799,719	877,622	976,853	1,078,229
EXPENSES:					
Salaries	239,156	268,005	279,432	325,251	359,640
Employee Retirement	41,322	46,911	47,701	56,371	62,406
Staff Hospitalization Insurance	13,928	15,397	17,466	27,826	38,563
Disability Insurance	2,321	2,559	2,694	2,825	2,977
Payroll Taxes	15,764	15,781	17,073	20,243	22,011
Liability Insurance	3,320	3,320	3,320	3,562	4,640
Condominium Fees	16,983	18,167	19,366	19,940	22,248
Interest on Mortage	17,018	12,803	7,163	3,233	1,944
Depreciation - (Condo)	8,482	8,482	8,482	8,482	8,482
Office Furniture & Equipment	3,404	26,516	10,622	6,762	32,663
Property Taxes - Condominium	3,705	4,002	3,978	3,978	4,481
Office Insurance	2,288	2,382	2,722	3,536	4,346
Personal Property Taxes	539	557	1,086	1,180	1,309
Office Supplies and Expenses	6,665	8,867	8,525	9,810	9,450
Awards	104	31	207	127	0
Postage	18,968	22,409	22,626	24,075	25,167
Telephone	8,214	8,593	10,542	8,891	9,828
Books and Periodicals	148	169	418	192	479
Professional Associations and Societies	325	223	140	804	586
Legal - Counsel Contract	57,749	59,995	63,000	116,861	79,658
Legislative Reporting	0	0	4,917	5,555	5,695
Audit	1,200	1,400	1,400	1,500	1,500
Travel Expenses	30,574	38,589	39,925	41,986	55,399
Printing and Distribution	24,764	27,751	28,611	30,119	27,727
Accrediting Commission - Travel & Exps.	112,743	146,949	188,327	156,258	248,733
Honoraria	20,076	20,275	23,775	33,450	45,375
Miscellaneous Printing	0	1,856	0	0	0
Special Lawsuit	0	0	11,031	0	0
TOTAL EXPENSES	649,760	761,989	824,549	912,817	1,075,307
Excess of Income over Expenses - Fiscal Year (FY) Ended as of March 31	28,459	37,730	53,073	64,036	2,922

NATIONAL ASSOCIATION OF TRADE AND TECHNICAL SCHOOLS (NATTS)

INCOME:	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
Member Dues	1,817,315	2,094,613	2,302,350	2,550,813	3,095,921
Application Fees		29,201	107,240	124,150	224,734
Processing Fees		28,000	211,232	388,950	326,316
Appeals Fees		21,000	5,615	47,800	43,800
Visitation Fees	233,435	97,128	247,616	309,470	519,460
Interest Income	377,247	259,580	244,219	315,486	295,457
Dividend Income	12,450	18,067	22,010	19,718	12,238
Rental Income	86,419	179,632	279,574	282,098	252,315
Tenant Reimbursement	15,627	6,526	18,797	20,077	29,518
Meetings:					
Administrative Advancement	50,850	57,580	69,655	10,719	34,715
Educators Workshop	7,150	8,835	13,150	11,795	18,913
Public Relations Workshop		7,775	4,900		
Student Recruitment Works		7,400		42,295	41,130
CBSD Workshop	5,386	10,125	11,785	13,900	15,115
Financial Aid Workshop	56,215	61,173	64,130	109,099	105,793
Industry Relations, Inc.		5,400	9,514	951	14,015
Annual Conference	182,399	246,944	306,428	316,703	427,462
Management Dev. Institute			30,450	53,447	72,888
Admissions					25,655
Accreditation					71,980
Publications	18,428	19,392	22,400	23,770	34,329
Journal Income	27,647	24,529	32,802	61,202	68,779
Miscellaneous	15,777	4,208	7,034	15,013	16,576
Twentieth Anniversary CMT		9,570			
Gain on Furniture Sale		3,750			
Total Operating Income	2,908,345	3,200,408	4,000,701	4,698,429	5,746,899
OPERATING EXPENSES:					
Salaries	856,550	784,269	821,897	849,532	1,258,405
Meetings	454,317	514,565	585,611	520,778	782,260
Postage	128,650	151,687	85,180	107,200	108,576
Printing	156,184	200,137	48,597	212,872	73,718
Office Expense	118,880	87,251	58,899	83,471	114,399
Commissions	1,055	4,887	5,873		
Professional Fees	157,320	208,411	279,851	262,510	346,919
Accreditation Travel	271,081	389,874	479,729	562,984	890,973
Assocaition Travel	67,846	88,648	97,508	174,418	222,720
Contributions'	88,750	12,500	38,000	28,845	650
Rent	197,514				
Real Estate Taxes	22,535	49,758	60,131	53,495	56,575
Dues and Publications	53,074	63,632	71,334	91,339	77,047
Payroll Taxes	56,996	55,755	56,180	71,281	90,013
Employee Benefits	54,630	67,862	55,694	86,381	115,480
Public Relations	144,597	118,712	476,052	321,018	717,082
Honoraria	18,600	35,738	28,288	20,642	24,000
Telephone	42,094	49,915	55,803	48,222	64,205
Utilities	35,458	42,270	47,695	42,340	60,261
Amortization	4,588	7,267	7,267	7,267	9,946
Depreciation	85,808	138,184	153,388	184,545	161,911
Taxes	4,016	6,512	8,733	7,343	7,051
Transfer Tax Contingency		18,200			
Contingency			2,499	2,000	12,600
Repairs and Maintenance	27,257	20,855	87,531	49,113	55,523
Contract Services	8,391	6,227	29,333	1,526	4,550
Interest	158,669	277,328	274,778	267,964	165,167
Insurance	9,344	14,007	18,288	45,235	49,532
Travel and Entertainment	5,277	3,186	8,919	24,176	25,202
Miscellaneous	5,369	19,918	28,824	28,694	30,035
Income Taxes		100	100	100	100
TOTAL OPERATING EXPENSES	3,014,850	3,415,453	3,919,958	4,233,448	5,514,880
NET OPERATING INCOME	(106,505)	(215,045)	80,743	464,981	232,019
Gain on Sale bf Securities	1,601	53,391	112,816	16,224	93,829
Effect of Accoutning Principle Change		(161,654)	(9,689)		
NET INCOME (LOSS)	(106,904)	(161,654)	183,870	481,205	325,848
TRANSFER (TO) FROM:					
Permanent Reserve Fund			(140,000)	(100,000)	
Contingency Reserve Fund				(200,000)	61,228
Set Aside for Furniture				(80,252)	(231,748)
BALANCE AFTER TRANSFER AND SET ASIDE, AS OF YEAR ENDED MARCH 31					

COEI FINANCIAL REPORT

	1985	1986	1987	1988	1989
INCOME					
Total Dues	408,045.00	465,419.00	553,730.00	608,785.00	782,866.06
Allocations	(81,952.00)	(88,096.00)	(93,460.00)	(118,402.00)	(158,487.00)
Evaluation Fees	28,800.00	20,900.00	26,000.00	18,100.00	26,094.89
Secretarial Fees	805.00	270.00	7,640.00	26,653.00	5,780.05
Application Fees					46,029.49
Investment Income		1,159.00	8,161.00	12,336.00	28,023.51
Sales - Publications	367.00	382.00	441.00	609.44	910.41
Registration Fees					10,900.00
Total Income	356,065.00	400,034.00	502,312.00	548,081.44	742,177.41
EXPENSES					
Salaries	*	139,831.86	183,504.00	190,433.63	261,064.21
Fringe Benefits	*	37,379.16	54,333.00	50,267.95	65,324.82
Operating Expenses	*	173,919.98	197,483.68	257,138.92	308,321.98
Total Expenses	324,774.00	351,131.00	435,320.68	497,840.50	634,711.01
Increase In Fund Balance	31,291.00	48,903.00	67,191.32	50,240.94	107,406.40
Beginning Fund Balance	(35,777.00)	(4,486.00)	44,417.00	111,608.32	161,849.26
Ending Fund Balance	(4,486.00)	44,417.00	111,608.32	161,849.26	269,255.66

** Breakdown of information not available*

SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS, INC. (SACS)

Revenues:	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
Membership dues	3,601,556	4,056,954	4,637,748	4,896,200	5,142,833
Investment income	330,408	304,816	222,605	291,953	371,291
Grants and contract fees	391,476	329,798	188,861	176,416	310,671
Annual Meeting Registration fees	128,323	144,429	153,660	182,450	168,512
Publication sales	28,641	30,884	42,555	60,259	54,453
Fees - evaluation and agency assistance	65,550	58,880	42,000	38,037	54,295
Other income	76,884	79,092	120,264	123,637	173,309
Total revenues	4,622,838	5,004,853	5,407,693	5,768,952	6,275,364
Expenses:					
Commissions and projects	3,951,324	3,661,032	3,906,348	3,977,936	4,356,942
General Association expenses	824,045	782,742	857,170	1,076,199	1,495,030
Total expenses	4,775,369	4,443,774	4,763,518	5,054,135	5,851,972
Revenues in excess of Expenses	(152,531)	561,079	644,175	714,817	423,392
Fund balances, beginning of year, July 1	2,273,512	2,120,981	2,630,124	3,274,299	3,989,116
Disbursement to Ford Foundation		(51,936)			
Funds balances, end of year, June 30	2,120,981	2,630,124	3,274,299	3,989,116	4,412,508

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 18

Georgia Department of Education
Office of Business/Education Partnerships
Twin Towers East
Atlanta, Georgia 30334-5020

Werner Rogers
State Superintendent of Schools

F. Ellis Bateman
Assistant State Superintendent

UNITED STATES SENATE
COMMITTEE ON GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Hearing on September 12 and 13, 1990

Statement

by
Janie W. Smith
Director
Division of Nonpublic Postsecondary Education
Georgia Department of Education

Mr. Chairman, and other members of the Subcommittee, I regret that I was unable to appear before you; however I am pleased to provide this statement for the record. As Chairman Nunn requested, I will address my experiences with the operation of the Federal student aid program in general, and with the licensing, accreditation, and Federal eligibility/certification functions in particular.

Authority of the Georgia Department of Education

Currently, the Georgia Department of Education, Division of Nonpublic Postsecondary Education is responsible for the administration of two Georgia statutes, the Georgia Proprietary School Act and the Postsecondary Educational Authorization Act. The Georgia Proprietary School Act, Georgia Code 20-4-60 et seq, was enacted in 1973. The Postseconary Educational Authorization Act, Georgia Code 20-3-100 et seq, was enacted in 1979. Both of these statutes are repealed as of July 1, 1991, and are replaced by the Nonpublic Postsecondary Educational Institutions Act of 1990. The function of licensing nonpublic postsecondary institutions will be transferred to the Georgia Student Finance Commission.

This recent legislative activity in Georgia was in response to the adverse publicity associated with the student loan default problem. A special study committee made up of members of the Georgia House of Representatives assisted by members of the research staff of the Georgia General Assembly spent the interim looking into the oversight of postsecondary education in this state. The following information was provided to that committee by the Georgia Department of Education.

Proprietary Schools and Nonpublic College Problem Areas

1. Budget and Staffing. Resources are not adequate to accomplish the

full intent of the law.

From 1979 until 1989, one individual has been responsible for the oversight of over 150 active proprietary schools. This is not a static activity, as schools are opening and closing continuously. Required activities in addition to the routine renewals of authorization include:

a. Organizing initial authorization activities including training visiting teams, writing contracts, etc.
b. Determining if activities are subject to licensure or are exempt.
c. Dealing with operations that begin with no legal authority.
d. Providing consumer information either through telephone inquiries or through the publication of documents required by statute.
e. Responding to consumer complaints.
f. Organizing the quarterly meetings of the Georgia Proprietary School Advisory Commission.
g. Initiating or responding to adverse actions.

Drastic increases in certain activities have been observed since the 1986 Ability to Benefit (ATB) provisions of the federal financial aid programs were enacted, as most consumer complaints involve a student who has obligated themselves for GSL/SLS loans. Increased volatility in the nonpublic sector has been observed due to the rapid growth of school enrollments due to the ATB provisions and the branching of schools to multiple locations in order to take advantage of the federal dollar availability.

Example:

Southern Vocational College
Tuskegee, Alabama

This institution began operations in Georgia without proper legal authority. It was accredited by the Southern Association of Colleges and Schools, Commission on Occupational Educational Institutions (SACS-COEI), as a branch of the Alabama school. SACS-COEI did not check with Georgia authorities as to the legal status in Georgia. The school closed without notice in 1986. The director was located and he gave assurances that there were not students enrolled at the time of the closing and that all complaints would be taken care of. Student complaints are now being initiated because of defaulted loan status.

2. Governance. The Georgia Board of Education's primary concern is the elementary and secondary public schools of the state. Postsecondary education, especially the regulation thereof, is of little interest to the Board.

Since the enactment in April, 1985 of the Quality Basic Education Act (QBE) which was designed to upgrade elementary and secondary education in Georgia, the Proprietary School Standards Unit and the Nonpublic College Standards Unit have been in four different divisions and three different offices of the Georgia Department of Education. The units have physically moved two times. The Georgia Proprietary School Advisory Commission and unit staff have recommended staffing improvements each year, but these have only been submitted once to the Georgia General Assembly as part of the agency funding package. These functions were orginally assigned to the Georgia Department of Education, the only neutral board, to avoid a potential conflict of interest. Had these functions been assigned to the Georgia Board of Regents, the agency responsible for the governance of the public supported postsecondary institutions, questions could have been raised over this board's impartiality in the nonpublic postsecondary licensure process.

Obviously, moving records and experiencing diminished clerical support undermines a function that is so heavily dependent on good, accurate records. Time that had previously been spent on authorization activities was consumed by personnel matters and the restructuring of records. To say that the activities of the two units is a low priority would be an understatement. The staffing pattern has been one position for proprietary school oversight, one position for nonpublic college oversight and a shared clerical position. Records indicate that over 540 institutions have been subject to regulation by the Georgia Department of Education since the enactment of the two statutes.

3. Fragmentation of Oversight. Several state agencies regulate differing types of schools with no one agency responsible for consumer protection for all students enrolled.

Georgia agencies involved in the regulation of postsecondary educational programs include the Georgia Department of Education, the Department of Technical and Adult Education, the Board of Regents, the Department of Public Safety, the Department of Labor, the Real Estate Commission, the Insurance Commission and several of the licensing boards under the Office of the Secretary of State, e.g. the Cosmetology Board. There is no one agency in Georgia that can give consumers complete information on every postsecondary institution or all postseconary training programs available. Consumers call the Georgia Department of Education for most school related inquiries or problems because they do not know which agency is responsible, e.g. the Office of Consumer Affairs may refer a complaint against a cosmetology school to the Georgia Department of Education rather than the Office of the Secretary of State, Cosmetology Examining Board. This is extremely confusing for the consumer. Further, the major offenders in the student loan default area are schools which are not subject to regulation in Georgia by the Georgia Department of Education, i.e. truck driving schools and cosmetology schools. Both of these kinds of schools are regulated by Georgia agencies with no consumer protection standards.

Example:

United Career Centers
Ultissima Beauty School

Both of these schools operated in the same location in Decatur, Georgia. The business programs were licensed by the Proprietary School Standards Unit of the Georgia Department of Education. The cosmetology program was licensed by the Office of the Secretary of State, Cosmetology Examining Board. These schools were recognized by the Southern Association of Colleges and Schools, Commission on Occupational Educational Institutions (SACS-COEI), as branch campuses of schools located in other states. The business school was under adverse action proceedings with the Georgia Department of Education and enrollment had been stopped when it closed without notice. The cosmetology school apparently was continuing to enroll as usual; however, it was this school that was under adverse action proceedings with the United States Department of Education. That action was a major factor in the closing without notice. The owners are residents of Missouri and owned schools in Florida, Georgia, New York, Missouri and California. No student records were furnished as required by Georgia law. Some student complaints for the cosmetology school have come to the Georgia Department of Education; however, most complaints will not be received until students begin to be billed for federal loans. The schools have withdrawn from SACS-COEI, and the owners will not return telephone calls from the Georgia Department of Education.

This situation has been repeated several times with out-of-state operations like this. It is difficult to ascertain what a school's status might be at any given time with its accrediting body, the various jurisdictions in which it is operating and the federal government. One federal official has admitted that the best thing for a school involved in adverse action proceedings to do is to close and leave without notice. This is because it takes so long for the federal agencies to complete the adverse action proceedings. This example illustrates how two Georgia agencies were regulating one operation. Although the programs were named as different schools, it was one operation in one building owned by one family.

4. Exemptions. Many institutions are currently exempt from state oversight. Some of these institutions have caused problems for the consumer and should be included in the consumer protection regulatory activities.

Twenty-six degree-granting institutions are not subject to state oversight in Georgia. Thirty-eight institutions have sought an exemption on religious grounds which is permitted in Georgia. Numerous other exemptions are permitted by the Georgia Proprietary School Act and the Postsecondary Educational Authorization Act. Consumers with complaints have no state agency to contact. Often, the Office of Cosumer Affairs incorrectly refers consumers to the Georgia Department of Education. Consumers are outraged when they are told that the Georgia Department of Education has no legal authority and cannot help them. Many calls have been received about the closing of Tift College and the financial situation of Atlanta University and Mercer University. All three of these colleges are specifically exempt from state oversight. The recently passed Georgia law has added to rather than taken away the ability for institutions to be exempt from state regulation. The United States Department of Education uses state licensure as a criterion for eligibility to participate in the student loan programs. The exemption provisions found in most state statutes clearly diminishes this criterion.

Examples:

The Savannah College of Art and Design
Savannah, Georgia

This institution has twice introduced legislation to become exempt from the provisions of the Postsecondary Educational Authorization Act. With the enactment of the new Georgia statute, this institution will be exempt. Many consumer complaints were received against this institution that dealt with the condition of student housing. It was determined that at least two buildings which were being used for student housing were not in compliance with local fire and housing codes. The violations noted during the investigation of the consumer complaints were corrected due to the fact that the state license was due to expire. Had there been no oversight this may not have been the case. This institution is accredited by the Southern Association of Colleges and School, Commission on Colleges (SACS-COC).

St. Mary's of the Plains
Dodge City, Kansas

This institution made application to have licensed sales representatives in Georgia to sell a truck driving program. The investigation of this application indicated that this private college had entered into a management contract with a truck driving school located in Texas. St. Mary's was not subject to state licensure in Kansas, and the Kansas authorities had no knowledge of the arrangement. The college was regionally accredited by the North Central Association of Colleges and Schools (NCACS), and that agency extended the institutional accreditation of St. Mary's to include the truck driving school. According to college officials, ninety-nine percent of the students enrolled in the truck driving program were federal loan recipients. This example indicates further that the reliance on state oversight may be misleading.

It is important to note that both of these are examples of nonprofit institutions.

5. Strength of Standards. The Georgia Proprietary School Act lacks any penalties for violations other than closure of the school. The standards for both proprietary schools and nonpublic colleges could be strengthened considerably.

The Georgia Department of Education cannot act in a way that is responsible to the student by closing a school. Students will be left stranded with no training still owing federal loans. Schools with similar programs may be contacted to offer to "teach out" students, but this is a voluntary effort. Recently, there have been indications that schools participating in teach out efforts have encountered problems with federal officials during audits. Schools will probably be reluctant to participate in the future. Specialized courses of study may not be found in other schools. The tactic usually taken is the placing of conditions on the Certificate of Authorization or limiting enrollment so that the school can attempt to rectify the problematic areas. The goal is to avoid a disruptive closing and encourage the school to teach out and withdraw voluntarily.

The standards for proprietary schools and nonpublic colleges in Georgia are minimum consumer protection standards. They are not indications of high quality. It has been observed that in schools that intend to participate heavily in student loan programs all decisions are made in regard to the requirements of those programs. They are not educational decisions. They are financial aid decisions, e.g. program lengths are based on financial aid requirements rather than typical training time requirements. A school application is considered and acted upon prior to the enrollment of students. What is proposed as part of an application and what actually occurs in a school may be entirely different matters.

Examples:

Connecticut Academy
Atlanta, Georgia

An application was made to open a school in Atlanta that would be a branch of a small school in Connecticut. The owner indicated that he had "bought his accreditation." The school in Connecticut was accredited by the National Association of Trade and Technical Schools (NATTS) and had less than ten students. The Atlanta school was licensed to begin operation, and a highly successful telemarketing effort was begun. Within a few months, the enrollment at the Atlanta school reached several hundred students. Consumer complaints prompted a series of inspections during which it was determined that the course presented in the original application was not being taught and that another location had been added to house the rapidly increasing enrollment. These complaints were forwarded to the accrediting body. NATTS determined that the enrollment at the parent school in Connecticut was down to seven students, while the Atlanta branch had an enrollment of over five hundred students. The school was found to be in violation of several state standards. Enrolling, advertising and recruiting activities were required to cease and the school closed in June, 1990. Clearly this is an example of the abuse of the branch campus concept and is an extreme example of "accreditation for sale."

IBT (Institute of Business and Technology)
Atlanta, Georgia

This school closed in August, 1988. Recruiters had engaged in unethical practices tied to recruiting in homeless shelters. The school promised to provide students with an apartment paid for through the proceeds of a federal loan. Adverse action were initiated by the federal government which resulted in a financial crisis. The school owners were unable to meet payrolls and faculty quit. The Georgia Department had taken action to limit enrollment leaving 35 students at the time of the closing. Enrollment had been as high as 300 at one time. All complaints have not been settled to date. This school was accredited by the Association of Independent Colleges and Schools (AICS).

Elkins Institute
Atlanta, Georgia

This school closed in May, 1989. There had been indications of financial difficulty and enrollment was down. The owner indicated that the school would be sold, but this was not accomplished. The owner filed bankruptcy. Great difficulty was experienced in securing the student records. The surety bond was called to give partial refunds to students. This school was accredited by the National

Association of Trade and Technical Schools (NATTS).

Atlanta Centers for Technical Arts and Sciences
Atlanta, Georgia

This school closed in November, 1989. Adverse action was initiated by the Georgia Department of Education due to numerous complaints and a failure to make timely refunds. There was an orderly closing with a teach out, and student records were eventually secured. This school was owned by a California resident who is still operating schools in that state. This school was accredited by the Accrediting Council for Continuing Education and Training (ACCET). The accrediting procedures used in this case have been questioned by the Georgia Department of Education in a letter to the United States Department of Education which was considered during the renewal of eligibility of ACCET.

Crown Business Institute
Atlanta, Georgia

This school closed in December, 1988. There was a teach out and full refunds were made to 20 students. Complaints are now being received as loans come due. There was a New York telephone number for a period of time after the Atlanta closing, but apparently all the New York schools have closed and we have no contact now. This school was accredited by the Association of Independent Colleges and Schools (AICS).

6. Fee Structure. The fee structure is not adequate to support the regulatory functions required. In FY 1989 only $15,280 was collected from regulated institutions.

The initial authorization fee for a college or university is currently $500. This is one factor that has prompted institutions located in other states to seek licensure in Georgia. Metropolitan Atlanta is seen as a growth area with markets not currently being served by the public sector institutions and private institutions not subject to regulation. Accredited institutions from other states seek to offer nontraditional, external degree programs. They typicallly lease office space and hire adjunct faculty and make a minimal investment in Georgia. These kinds of revenue producing programs are big money makers for institutions located in other states.

Proprietary schools provide a more extreme example in that the initial licensing fee is $100, the renewal fee is $50, and there is no fee for the licensing of agents (commissioned sales representatives).

Examples:

Nova University
Fort Lauderdale, Florida

Currently licensed to offer an Ed.D. degree in Educational Leadership. The required library agreement was given by Mercer University in Macon and Atlanta for a fee of $100 per student per year. Physical facilities are given free by three local school districts. The tuition for this three year program is in excess of $12,000. Faculty salaries are charged off to all the states in which the program is currently offered not to Georgia alone. Current enrollment figures indicate that Georgia revenues are approaching one-half million dollars per year. This institution is not subject to state licensure in Florida because it is accredited by the Southern Association of Colleges and Schools, Commission on Colleges (SACS-COC). This example illustrates the mobility of colleges as well as proprietary schools in that, at last count, Nova was operating in twenty-five states. The regional accrediting commissions have been slow to respond to interregional issues.

Superior Truck Driving School
Indianapolis, Indiana

This school had recruiters in Georgia. It has withdrawn form the state since the federal government has initiated an adverse action. Georgia students still have outstanding refunds.

7. Bonding Requirements. The current bonding requirements do not offer sufficient protection to the students enrolled in the regulated schools.

Except for very small schools, the bonding requirements provided by the current statute do not provide enough coverage to protect the consumer. In little over a year, there have been 23 schools in Georgia which have become inactive. If a school closes without notice, there is little that can be done for the students. Further, it has been observed that the insurance companies are not interested in this kind of business. Many schools have had difficulty in securing the minimum bond currently required. Dramatically increasing the bonding requirements across the board would adversely affect the small schools that do not participate in the federal financial aid programs. These schools offer the best examples of good proprietary education. They are typically individually owned and offer a specialized curriculum such as floral design, animal grooming, or commercial art. The student usually completes the training and is immediately employed or starts a business of their own. Consumer complaints are practically nonexistent. When the individual is a cash paying customer or is using a grant the schools are kept in tow by the consumer. The greatest number of problems and complaints occur when there is a perception that the schooling is part of a give away program or that the student is not responsible for paying for the training. Clearly, the current situation is woefully inadequate in Georgia with the maximum bond for a proprietary school being $25,000.

Example:

Jefferson Business College
Atlanta, Georgia

This school closed without notice in November, 1988. Assets were seized by the Internal Revenue Service. Action had been taken by the Proprietary Schools Standards Unit to limit enrollment. Due to the showing of a positive financial recovery plan, enrollment was allowed to begin again. Some students had only been enrolled for two weeks when the school closed. Their entire financial aid package had been received by the school. They received no education and were obligated for the entire amount of the loan. It is interesting to note that the income tax refunds due to students of Jefferson may be witheld by the IRS. At the time of closing, 130 students were enrolled. If bond proceeds were distributed evenly, each student would get a $192.31 refund. This school was accredited by the Association of Independent Colleges and Schools (AICS).

Licensure and Accreditation as Criteria for Eligibility

In remarks made at the public hearing in Atlanta at Morris Brown College concerning the reauthorization of the Higher Education Act, these two points were made:

1. State licensure is not one thing. It is fifty different things. Fragmentation of oversight, exemption from oversight and the lack of oversight at the state level must be taken into account when considering state licensure as a criterion for eligibility for participation in federal loan programs.

2. Accreditation is not one thing. It is many different things depending on the standards and the procedures of the accrediting agency. Accrediting agencies are private membership organizations. The accreditation cycle is a five to ten year cycle. Alot can happen within an institution between accreditation visits. Further, another definition for ATB must be considered - Ability To Branch. The branching from state to state and in extreme examples across a continent must be taken into account when considering accreditation as a criterion for eligibility for participation in federal loan programs.

Suggestions for Improvement

Under the current system of using state licensure and accreditation as the two criteria for eligibility for participation in federal student aid programs:

1. States must reexamine their regulatory efforts. Statutes must be strengthened as should regulations, procedures and standards. The new law in Georgia, in my opinion, is critically flawed in its current form. Luckily there is one more legislative session prior to enactment. It should be noted that in moving the function of licensing proprietary schools and nonpublic colleges from the Georgia Department of Education to the Georgia Student Finance Commission no appropriation was made. The new agency is expected to be self-supporting. The bonding requirements were increased rather than making provision for a type of student recovery fund to compensate consumers with legitimate complaints. The number of exemptions was increased rather than decreased due to heavy lobbying efforts by particular instituions. Fragmentation of oversight was not diminished.

2. Accrediting agencies must reexamine their activities. Interregional communication and cooperation must be increased. Communication with state licensing authorities must take place prior

to any accreditation action. Policies permitting the accrediting agency to make inquiries to the state and federal regulatory authorities must be instituted. The branch campus concept must be redefined in terms of educational services provided rather than an conduit for federal dollars.

3. The U. S. Department of Education rules should not permit the lending of large sums of money to individuals training for entry level, minimum wage jobs. These individuals simply cannot repay a loan. The Ability to Benefit type student has been particularly victimized by unethical school operators. Many of these individuals did not realize that they were signing loan documents. Grants rather than loans would be a better use of educational dollars for this type of student. Procedures for assisting students of closed schools should be instituted. Communication with state licensing authorities should be increased.

The recent efforts to reform the student aid programs coupled with the uncertainty of the transition to a new agency in Georgia, the state guarantee agency, has produced noticeable results in Georgia. The number of applications for new schools has decreased as have applications for program additions. Schools that were totally dependent on federal dollars for revenue are facing extreme financial difficulties and the number of bankruptcy filings has increased.

I am aware that proposals for improving the current process for determining eligibility of postsecondary institutions participating in the federal student aid programs are being submitted to U. S. Department of Education for consideration as part of the reauthorization of the Higher Education Act. I would ask that consideration be given to the use of an adequately funded public institutional approval process.

Currently, the states are looked to as the first gatekeeper. The situation in Georgia clearly illustrates the lack of incentive to perform this function. If somebody has to be the gatekeeper, there must be incentives to do a good job. Ways must be found to give incentives to the states to perform this function. One model that is currently in place, is that of the State Approving Agency process specified by the Congress for veterans educational benefits. This system of performing institutional approval and oversight functions under a contractual arrangement with the federal government has a proven track record. A similar model that would permit the states to perform the institutional approval and oversight function for federal student assistance programs on a reimbursement system like that used by the Department of Veterans Affairs' with the State Approving Agencies bears thorough consideration. This model coupled with a heavy enforcement process would offer a more unified system of institutional approval. The U.S. Department of Education cannot effectively monitor schools from Washington or regional offices. This model would offer a more effective monitoring system, it would be cheaper than an increased federal effort, and it would put the process with individuals whose loyalities lie with the students of their state. This model would permit the accrediting agencies to function as they were intended to function as organizations concerned with promoting educational improvement within member schools, not as "police officers."

I appreciate the opportunity to submit this statement. I hope that it proves helpful to the members of the Subcommittee as they look for ways to strengthen Federal student aid programs to ensure that funds are properly used by educational providers.

ACCREDITING COMMISSION
NATIONAL HOME STUDY COUNCIL
1601 - 18TH STREET, N.W. • WASHINGTON, D.C. 20009 • 202-234-5100

**Senate Permanent Subcommittee
on Investigations**

EXHIBIT # 29

September 11, 1990

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ACCREDITING PROGRAM ASSISTANT

Honorable Sam Nunn
U. S. Senate Subcommittee
on Investigations
Washington, DC 20510-6250

Dear Senator Nunn:

Thank you for inviting the National Home Study Council to submit a written statement regarding the Department of Education's student aid program. You asked for comments about our general experience with student aid programs and accreditation and eligibility factors in particular.

Attached is a statement prepared by one of our distinguished public Accrediting Commissioners. I believe it addresses many of the points in question. Essentially, we believe that the finger-pointing by the Department of Education serves only to disguise the fact that the Department makes eligibility decisions and has the responsibility for administering federal aid dollars.

Although accreditation is only a threshold requirement for eligibility, assuring the Department that the school's educational program meets the claim made for it, departmental apologists would have us believe that it is the sole factor. The picture of a large federal Department held hostage by accrediting agencies, and thereby rendered helpless to enforce Federal regulations, is not a true one.

The Accrediting Commission of the National Home Study Council has repeatedly made the difficult decision to terminate accreditation bringing the risk of protracted and expensive litigation. On several occasions our Commission has revoked the accreditation of schools whose presidents sat on the NHSC Board of Trustees.

We took a stand when the federal authorities were still in the position of reviewing the situation. And we have proposed effective reform measures. We strongly support the continued right of access to federal funds by correspondence school students.

Following your public hearings, we trust that we may submit additional comments on this important subject. For the present, thank you for the opportunity to furnish this thoughtful reaction of one of our public Commissioners.

Sincerely yours,

William A. Fowler

cf

way to solve the problems. If enacted, the NHSC plan will better control the flow of funds to schools and will eliminate much of the abuse which occurs under the present law.

V. Home study education does not fit the pattern of other forms of education. Regulations promulgated by the Department of Education for traditional educational institutions should not force correspondence schools into a "residential school" mode and into policies which are irrelevant to the goals of correspondence study.

VI. Federal financial assistance to home study students should continue because it meets needs not met by any other forms of education.

****

I. The Accrediting Commission has neither the responsibility, legal authority nor the capability to control against fraud and abuse in federal programs.

Over thirteen years ago, Secretary of Health, Education and Welfare Joseph A. Califano appointed a national study group of experts to advise him on ways of improving the federal aid programs, and requested suggestions on how best to use accreditation in student aid. A "Report to the Secretary," dated June 1977, stated:

> "Increasing federal reliance on private accrediting agencies presents some problems. The most serious problem is that accrediting agencies are private, independent, voluntary organizations fundamentally responsible to their member institutions. They have no legal responsibility to state or federal governments; they are funded entirely from their members' dues and application fees (they receive no public funds, either state or federal); and their purposes do not necessarily coincide with federal needs. Accrediting associations are not regulatory or enforcement bodies, and they are opposed to being called on to assume responsibilities of a regulatory nature. This has been a source of friction and some confusion as Congress has sought means to achieve greater institutional accountability for student financial aid funds."

This statement is still true today.

The Accrediting Commission believes that its proper role is to assess the quality of an institution's instruction, the quality of its faculty, the value of its courses, and whether or not the institution fulfills its stated objectives.

In short, the role of the Accrediting Commission is to assess the overall educational quality and to determine whether the school delivers results as advertised.

Accrediting Commission
of the
National Home Study Council

Accreditation, Federal Aid and Home Study

"Massive abuse in Student Financial Aid," says the press. "Programs remain rife with ripoffs," says the Department of Education's Inspector General. The General Accounting Office and the Office of Management and Budget echo the criticism. The Congress says it is "mismanagement through the Department of Education" and questions the Department's oversight of accrediting agencies. The confused press and news media accounts blame school owners and their commissioned salesmen. It appears that everyone is to blame and no one is to blame.

The National Home Study Council (NHSC) and its Accrediting Commission, targeted in some of the attacks, has had no opportunity to defend itself. The NHSC believes that those who criticize most loudly do not really understand the whole process of accreditation, certification, eligibility and compliance monitoring, and that the allegations are full of exaggerations, half truths and misstatements. The resulting confusion has created a challenge to the status of the NHSC accreditation process, has cast doubt on the reputation of the Accrediting Commission, and has jeopardized the continuation of student financial assistance for home study students.

This paper is written from the perspective of a public commissioner of the Accrediting Commission of the NHSC, a person who understands what is going on inside the U.S. Department of Education, having held a high position in that organization; one whose career experience makes her concerned about what is happening today. Hopefully, these comments will help clear up some of the misunderstanding, and will persuade the reader that opportunity for student financial assistance for home study students should continue.

This paper will assert that:

I. The Accrediting Commission has neither the responsibility, legal authority nor the capability to control against fraud and abuse in federal programs.

II. Although it does not have this responsibility, the NHSC, cooperating with the Department of Education, has strengthened its own long-standing standards and pressed its member institutions into compliance with them as well as with complementary federal requirements.

III. Further, through use of the standards of the NHSC, the NHSC Accrediting Commission is effectively eliminating abuse in schools by direct or indirect termination of their accreditation or by placing severe limitations on their operations for failure to meet Commission standards.

IV. In order to reduce abuses in the future, the NHSC has proposed a "Four Point Plan" (see attachment) which merits the consideration of those looking for a

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Some NHSC Standards Overlap Federal Regulations

The standards against which NHSC schools are measured sometimes overlap the requirements of the Department of Education. For example, federal regulations state that if a student is enrolled without a high school diploma or the equivalent (in a postsecondary program), the student must demonstrate "ability to benefit." By comparison, one NHSC standard states:

> "The school must establish the qualifications which an applicant must possess to enable the successful assimilation of the educational materials furnished. The school must also determine with reasonable certainty, prior to acceptance of the applicant, that the applicant has been informed of and has the proper qualifications to enroll in the course."

The NHSC has other parallel standards on the calculation and prompt making of refunds, on the disclosure of complete and accurate information on costs, placement rates and available teaching equipment. It also has standards, similar to those of the Department of Education, on a school's obligation to maintain financial solvency. When compliance with NHSC standards is considered at the time of accreditation or re-accreditation, visiting examiners are aware of Department of Education requirements as well as NHSC standards. Additionally, the Commission attempts to be aware of the unique rules of the many states in which NHSC schools are located. However, because of the myriad of state laws in effect, it is almost impossible to keep track of everybody's rules and to note an individual school's lack of adherence.

On the other hand, the NHSC does not have standards on satisfactory academic progress, on how "long" a course must be, on verification of the family financial statement, nor on requiring that the student be a citizen of the U.S. NHSC standards do not require that certain disclaimers be signed by the student.

To quote again from the 1977 Califano report:

> "It bears repeating here that accrediting agencies are most concerned with evaluating the overall quality of educational programs offered by an institution and are neither adequately trained nor do they desire to evaluate the capability of an applicant institution to properly administer federal student financial aid programs."

Accrediting Commission's Role Misunderstood

To summarize, we believe that the Accrediting Commission's role has been misunderstood. We believe that nothing in the law or in regulation requires accrediting commissions to monitor the compliance with federal regulations of the schools they accredit, but only to check for compliance with their own standards. The accrediting commission is a private agency which cannot possibly accommodate the preferences of all governmental agencies. It must, at all times, be true to itself and to the standards it has developed for recognition. As was stated in a recent issue of the *Legal Times*:

> "The question is, who has the responsibility? . . . The banks say they rely on the guarantee agencies to check out the schools . . . The guarantee agencies say they rely on the federal government. The Department of Education says they rely on private accrediting agencies. Everyone's in a circle pointing to the guy on the right."

Not only does the NHSC believe that it has no legal right to monitor or enforce compliance with federal rules, it also believes that any attempt on its part to assume such an obligation could present serious challenges to its authority in the form of threats of legal action and lawsuits against the Commission, to include charges of anti-trust law violations, price fixing, and arbitrary and capricious actions.

II. Although it does not have this responsibility, the NHSC, cooperating with the Department of Education, has strengthened its own long-standing standards and pressed its member institutions into compliance with them as well as with complementary federal requirements.

For example, in the area of **ability to benefit** students, the NHSC has adopted the following policies:

- Criteria for Remedial Learning Programs for Students Enrolled Under the Ability to Benefit Provision of the Higher Education Act of 1986. (The policy and its accompanying procedure were worked out with and approved by the Department of Education.)
- Criteria for Standardized Admissions Tests for Students Enrolled Under the Ability to Benefit Provision of the Higher Education Act of 1986.
- "When offering a course to prepare a student for a vocation which requires a high school diploma for employment, accredited schools must require the student to have a high school diploma for admission to the course."

In the area of **financial responsibility**, the NHSC has adopted the following policies:

- "Any institution which voluntarily or involuntarily enters bankruptcy is in immediate violation of the Accrediting Commission's financial responsibility standard. This violation results in the school's automatic termination of accreditation."
- For accreditation purposes the NHSC will accept only financial statements which have been prepared "in conformity with generally accepted accounting principles." This includes the use of the accrual method of accounting.

In order to prevent **questionable sales practices** by NHSC schools, the NHSC has:

- Required that all accredited schools eliminate any third party sales representatives. All salespersons must be directly responsible to the school.

- Prohibited "any face-to-face solicitation or promotional activities" of sales representatives "at or in proximity to an employment or public welfare office."

Responding to concerns expressed by the Department of Education's Inspector General and the Department of Justice, the NHSC has entered into an agreement with the Department of Education in 1989 to validate an institution's determination of course length for home study schools. The NHSC's course length validation procedure relieves the Department of the responsibility of establishing separate procedures to assess course length in home study schools.

III. Further, through use of the standards of the NHSC, the NHSC Accrediting Commission is effectively eliminating abuse in schools by direct or indirect termination of their accreditation or by placing severe limitations on their operations for failure to meet Commission standards.

In spite of the fact that this is not accreditation's role, the Commission has been able to act more quickly and decisively than government agencies.

Schools Lose Federal Eligibility Due to NHSC Action

In the case of one school in Florida, even though the Department of Education had failed to move against the school (state agencies had already threatened action and had demanded refunds), the NHSC Accrediting Commission demanded compliance with its standards. When the school failed to comply, the Commission terminated accreditation. By terminating accreditation, the Commission also effectively terminated federal assistance to the school and thereby eliminated further abuse of federal funds.

Even though this school later announced that it had submitted its resignation from NHSC accreditation, the resignation was invalid since the school had been notified of its loss of accreditation ten days earlier.

In the case of a school in California, the Inspector General had audited and had found a school guilty of failing to monitor satisfactory academic progress and failing to properly calculate and make resulting refunds to students. The NHSC made a special visit to the school. When the NHSC visiting team confirmed that the school was in violation of the NHSC refund standards and was also unable to meet its financial obligations, the school resigned its accreditation rather than having it terminated at a forthcoming meeting of the Commission. Again, this effectively terminated federal assistance to the school and eliminated the further abuse of federal funds.

Through similar aggressive stances taken against a school in Indiana, one in California, and another in Florida, the Commission acting alone has taken actions which were directly responsible for eliminating further abuse of federal programs by these schools.

But the solution for eliminating default, fraud and abuse *cannot* be left to the accrediting agencies. It must be done by the government, which is the legally authorized party. Again quoting from the Califano report, the 1977 study group recommended:

> "The study group recommends that OE make an effort to prosecute individuals through the courts, based on the provisions of the Education Amendments of 1976."
>
> "A program which can be violated with impunity by a few will ultimately be violated by many. Individuals who receive federal aid or who administer the aid available to others are the bearers of a public trust, and they should clearly understand the nature and extent of this responsibility. Those that abuse that trust should suffer the legal consequences of their actions. A few successful prosecutions would do much to eliminate fraud and abuse."

It appears that the slowness of the Department of Education to act has placed an inordinate burden on -- and resulted in subsequent legal actions against -- the accrediting commissions.

The Accrediting Commission is not Influenced by Its Association Linkage

In refuting the charge that Commission actions are influenced by linkages with schools alleged to be committing acts of fraud and mismanagement, it seems appropriate to mention that in the last two years, it has been necessary for the NHSC Accrediting Commission to take action against a number of schools whose chief executive officers held offices and trusteeships in the NHSC. Had these school officials been able to control or influence the Accrediting Commission, the accreditation of these schools would certainly not have been withdrawn. In fact, four of the seven members of the NHSC Accrediting Commission, including the Chairman of the Commission, are public members, persons who are in no way affiliated with any school.

No accredited school is exempt from compliance with NHSC standards. The Accrediting Commission has continuously demonstrated that being an NHSC official does not relieve the school of meeting its accreditation obligations.

IV. In order to reduce abuses in the future, the NHSC has proposed a "Four Point Plan" (see attached) which merits the consideration of those looking for a way to solve the problems. If enacted, the NHSC plan will better control the flow of funds to schools and will eliminate much of the abuse which occurs under the present law.

The NHSC has proposed that specific changes be made in the law and regulations in the case of home study to better accommodate the unique characteristics of the home study method and at the same time eliminate some of the abuses mentioned above. The changes would also reduce concerns of the Accrediting Commission as they would prevent abuse of the NHSC standards as well as the federal regulations.

In making such dramatic recommendations as those in its Four Point Plan, which would do financial harm to member schools, the NHSC has demonstrated the seriousness of its wish to cooperate with government in controlling against abuse.

V. Home study education does not fit the pattern of other forms of education. Regulations promulgated by the Department of Education for traditional educational institutions should not force correspondence schools into a "residential school" mode and into policies which are irrelevant to the goals of correspondence study.

Home study accreditation differs from other accreditation in the following ways:

- Schools accredited by the NHSC offer training at all levels, from elementary education to the Master's degree level.
- NHSC schools do not offer residential training, except for those which offer a short residential segment as part of a "combination home study-resident program." Instruction is conducted primarily through the mails.
- From the start of private correspondence education a century ago, students were encouraged to study at their own pace. A high achiever could move swiftly. Students were permitted to study at their own pace. If personal, employment and other circumstances so dictated, a student could adjust his pace of study and alter the time it took to complete the course to suit these circumstances. The primary goal was to learn the subject well, not compete against the calendar. The many federal rules which mandate a particular rate of progress through a course are an anathema to the traditional concept of home study.
- The NHSC's is the only accrediting commission whose responsibility is defined in terms of the teaching method rather than the level of education or the subject matter.
- Most students in home study are adults, their average age being 32-36 years of age.
- Courses are offered in many subjects not usually taught in resident schools, e.g., gemology, locksmithing, doll technology, and yacht design.
- Few of the NHSC accredited schools participate in federal programs (fewer than 20 currently).

VI. Federal student financial assistance to students in home study should continue because it meets needs not met by other forms of education.

Federal student financial assistance should continue because:

- Home study is more sought after, more used and more needed than ever before;
- Home study meets the educational needs of servicemen and women who can not physically attend a resident school;
- Home study fills a need not met by other educational organizations and methods;
- Home study gives hope to many who are ill, handicapped or otherwise confined to their homes;
- Home study provides opportunities for students who cannot interrupt their jobs to attend classes;
- Home study provides educational access to mothers in dire need of job skills but unable to leave small children without care; and,
- Through its own extensive use of the home study method, government agencies have demonstrated their belief in home study as a viable and effective learning method.

Past infractions of student aid rules by a few home study schools can be corrected through changes in the law proposed by the NHSC in its Four Point Plan.

Cooperation Could Make a Difference

Title IV programs became law in the mid-1960's in an atmosphere of cooperation and openness and in a sense of shared ownership between colleges and schools, federal agencies, states and local educational supporters.

During the next 20 years, scores of cooperative efforts succeeded in framing the direction of the programs. Massive training programs were undertaken by states cooperating with federal officials. Proprietary school accrediting commissions and associations implemented a default prevention training program. The Department of Education accepted the emerging regional proprietary councils as a forum for cooperation and communication with the Department and with accrediting commissions.

But now, in this troubled time, when the fallout from fraud and abuse and default is threatening to seriously curtail the programs, at a time when the media is full of allegations of "cheating the taxpayer," at a time when at least one guarantee agency is facing bankruptcy, there appears to be no willingness to cooperate in seeking solutions.

Federal and state governmental agencies and the accrediting commissions need to share what they know about individual schools, other state agencies, secondary markets, banks and other actors in the complicated network. They need to work together to develop regulations which will control but still are meaningful to all types of schools.

Through the sharing of ideas, by developing remedies together, and by open cooperation and communication we could go a long way toward solving our present problems.

Conclusion

The massive problems and the failures to eliminate fraud and abuse in student financial aid programs should not be blamed on the home study method, students in home study schools, the National Home Study Council or its Accrediting Commission. Students in home study need and deserve student financial assistance the same as any other class of students.

Any decisions which would restrict the approval, the authority or the stature of the Accrediting Commission of the National Home Study Council would do great injury to a tried and proved method of education in our country. It would also be a bitter blow to a respected and seasoned organization which has earned its place among educational institutions and whose ultimate concerns are the educational quality of home study in America.

Josephine L. Ferguson
Commissioner, NHSC
September 10, 1990

Accrediting Commission of the
National Home Study Council
1601 18th Street, N.W.
Washington, D.C. 20009
202-234-5100

Attachment

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NATIONAL HOME STUDY COUNCIL • 1601 18th STREET, N.W. • WASHINGTON D.C. 20009

BULLETIN

Number 20

April 19, 1990

The Four Point Plan

NHSC's Position on Reauthorization of the Higher Education Act for Home Study

With the Higher Education Assistance Act scheduled to expire in 1991, Congress and the Administration have begun work on reauthorizing legislation to continue federal aid to students. The Board of Trustees of the National Home Study Council, at its March 14, 1990 meeting, unanimously adopted a Council position and recommendations regarding reauthorization of Title IV federal student aid programs.

The Council's position reflects the philosophy of the NHSC and will serve as the basis for our efforts to continue the availability of federal assistance to correspondence school students. NHSC members are well aware of publicized cases of perceived abuses with the federal aid programs. Rather than taking a defensive position, the Board believes the best strategy is to offer recommendations for the strengthening of the programs so that students who wish to use such benefits for correspondence study can do so in ways that preserve and enhance the traditional benefits of the home study method.

Said NHSC President James E. Godfrey, "Given the harsh reality of past abuses of federal programs, abuses that have been repeatedly exposed in the media to the detriment of all home study education, constructive changes are necessary. These recommendations are responsible and rational remedies for weaknesses inherent to the current programs. The fact is, the survival of federal aid for home study is at stake."

The NHSC's Four Point Plan for reauthorized aid for home study schools and their students is:

1. **A participating school must enroll a significant number of bona fide students who do not use the aid programs.**

   As a condition for institutional eligibility in Title IV student assistance programs, home study schools should be required to enroll a proportion of students who do not receive any Title IV federal student assistance. This percentage of non-federally funded students should be at least 15 percent of the enrollment in each eligible program.

(over, please)

2. **Aid should be disbursed as students successfully progress through their educational programs ... reimbursement, not pre-imbursement.**

   Payments to the institution for federal student aid should be reimbursed after the student has successfully completed measurable segments of a course of study.

3. **The amount of federal aid to home study students should not exceed the published tuition amount.**

   Home study students should only receive federal assistance, including both grants and loans, equal to or less than the school's published tuition. The published tuition, for this proposal, could include reasonable, actual costs for travel to and from required resident training and living expenses during required resident training. Federal aid for resident training travel and living expenses should be disbursed when the student begins the resident training.

4. **Course length and standards of progress laws and regulations should allow for the independent, self-paced nature of home study.**

   Because of the student-paced nature of this method of education, federal laws and regulations should provide flexibility in the interpretation of course length requirements and standards of progress so that the advantages of the home study method are preserved.

The NHSC's overall goal in reauthorization is to assure access for correspondence study students in future federal programs so that these students have the same opportunity for federal assistance as students in other forms of education.

The NHSC Board of Trustees strongly encourages NHSC member's to endorse and give full support to all of these proposals, so that the Council, speaking with one voice, will succeed in preserving future eligibility for home study students.

William A. Fowler
Executive Director

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 30

NEWS
AICS RELEASE
Educating for a World of Work

PRESS RELEASE - Exec. Summ.
For Immediate Release
September 11, 1990

For Additional Information
Contact: Marmie Edwards
Phone: (202) 659-2460

"EDUCATION DEPARTMENT DISTORTS ACCREDITATION ROLE AND DEFAULT INITIATIVES"

The Association of Independent Colleges & Schools (AICS) questions the efforts of the U.S. Secretary of Education to relate accreditation to default rates at postsecondary institutions. AICS believes that the Secretary has imposed a new standard for recognizing accrediting bodies and has minimized the many successful efforts undertaken by the associations and institutions to reduce student loan defaults.

Yesterday, the Secretary issued a press release which announced that he would review seven accrediting agencies that accredit 89 institutions with "high default rates" yet the Secretary's own regulations which established criteria for recognizing accrediting bodies do not anywhere address the issue of defaults.

The Department's present efforts distort the role of the accrediting bodies in that accreditation primarily reviews educational quality. State licensing bodies look primarily at financial stability and consumer protection matters, while the U.S. Department of Education is responsible for oversight of the administration of federal student aid programs, including the loan programs.

AICS believes that graduation and placement rates are much better indicators of educational quality and institutional integrity.

Many studies indicate that the best predictor of default relates to the percentage/number of borrowers who come from lower socio-economic backgrounds.

In November 1987, then-Secretary Bennett indicated that the Department would review every institution with a default rate above 50% and the results of this review have never been published.

AICS and other associations dealing with private career schools have been at the forefront of default prevention and management actions. Since 1987, over a thousand persons have been trained in default prevention/management procedures at over 50 training sessions throughout the country.

The default data used in the Secretary's press release were for those loans going into repayment in fiscal 1988. Most of those students borrowed in 1987 or earlier, prior to the implementation of borrowing limitations legislated by the Congress, the default regulations promulgated by Secretary Cavazos, and the default management programs established by AICS and other associations.

Other "facts" in the Secretary's press release which lead to a misperception about the status of the default issue are:

o Of the 89 institutions cited by the Secretary, 31 (or 35%) are closed.

o The "closed" institutions made up $145 million (or 39%) of the $365 million in default at the 89 institutions identified by the Secretary.

o Of the remaining 58 institutions, seven are in Chapter 11 bankruptcy status or under a legal stay and 19 are under a special accreditation review.

o Contrary to the Secretary's implication, many of the school closings occurred because of accrediting commission actions, not actions of the Department of Education.

o Many of the remaining schools use aggressive and novel approaches to loan collection which will undoubtedly have more positive results on their default rates.

o Only 8,000 of the 10,000 postsecondary institutions in the United States are eligible for the federal student loan programs.

o The Secretary's press release gives the impression that only a few accrediting bodies are involved in the majority of the so-called problem. While there are approximately 100 accrediting agencies in the country, less than 25 of them are institutional accrediting agencies from which federal student aid eligibility derives. Most of the accrediting agencies recognized by the Secretary are specialized accrediting agencies which have little or no involvement in the federal eligibility issue.

PRESS RELEASE
For Immediate Release
September 11, 1990

For Additional Information
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"EDUCATION DEPARTMENT DISTORTS ACCREDITATION ROLE AND DEFAULT INITIATIVES"

The Association of Independent Colleges & Schools (AICS) questions the efforts of the U.S. Secretary of Education to relate accreditation to default rates at postsecondary institutions. AICS believes that the Secretary has imposed a new standard for recognizing accrediting bodies and has minimized the many successful efforts undertaken by the associations and institutions to reduce student loan defaults.

Yesterday, the Secretary issued a press release which announced that he would review seven accrediting agencies that accredit 89 institutions with "high default rates.". Dr. James M. Phillips, Executive Director of the AICS Accrediting Commission, remarked that "the Secretary's own regulations which established criteria for recognizing accrediting bodies do not anywhere address the issue of defaults." Dr. Phillips went on to express concern "the Secretary would issue the new policy in a press release prior to meeting with the heads of the accrediting agencies under review so that an objective discussion of the issue could occur."

During the past year, AICS and the other accrediting agencies tried to meet with the Department of Education to delineate clearly the appropriate responsibilities for the current state licensure/private accreditation/federal eligibility triad. AICS believes that if the Secretary really wants the National Advisory Committee on Accreditation and Institutional Eligibility (NACAIE) to consider defaults when reviewing an accrediting body, he should promulgate regulations to that effect so that the public would have the opportunity to comment on the regulations before they are finalized.

The Department's present efforts distort the role of the accrediting bodies in that accreditation primarily reviews educational quality. State licensing bodies look primarily at financial stability and consumer protection matters, while the U.S. Department of Education is responsible for oversight of the administration of federal student aid programs, including the loan programs.

AICS believes that graduation and placement rates are much better indicators of educational quality and institutional integrity. In recent months AICS has written to Department officials urging them to make public and use data on graduation rates and placement rates of all institutions providing postsecondary vocational training. This information was recently collected by the Department as a part of regulatory requirement imposed last year.

The Secretary's recognition criteria require that the accrediting bodies be evaluated on, among other things, the extent to which they review an institution's documentation and disclosure of the educational and job success of its students. AICS requires its institutions to provide graduation and job placement data and they are used by the Commission in evaluating institutions during the accreditation process.

While the AICS Accrediting Commission standards for evaluating institutions do provide that high defaults can be a trigger for a more detailed review of the institution, objective analyses of default rates confirm that defaults in and of themselves are not indicators of poor education offerings or bad practices. Many studies indicate that the best predictor of default relates to the percentage/number of borrowers who come from lower socio-economic backgrounds. Hence, private career schools, community colleges, historically black colleges and universities who serve high-risk populations tend to have much higher default rates.

Policymakers often focus too much on the dollar costs and not sufficiently on the reason why borrowers default in the first place. For the past decade, postsecondary students have received an increasing proportion of their student aid in the form of loans instead of grants. Thus, many low-income students who probably should be receiving more grant aid must borrow, ultimately leading to defaults. Unless the federal government addresses this very real problem, this nation must be ready to face the dire social consequences of inaction.

As the Department stated in its recently-published booklet entitled Reducing Student Loan Defaults, "most borrowers defaulted because they did not have, or did not believe they had, the ability to repay their loans."

Dr. James Foran, Vice President of Operations & Educational Affairs at AICS, stated "that in November 1987, then-Secretary Bennett indicated that the Department would review every institution with a default rate above 50% and the results of this review have never been published." It is AICS's understanding that over 45% of the 201 institutions subject to this review, had no dollar findings which had to be repaid and that over 77% had to pay less than $10,000. AICS believes that the Department was unable to draw a direct correlation between high defaults and improper practices or maladministration of the student loan programs once they reviewed those institutions.

Dr. Foran went on to note that AICS and other associations dealing with private career schools have been at the forefront of default prevention and management actions. Since 1987, over a thousand persons have been trained in default prevention/management procedures at over 50 training sessions throughout the country. "We believe that the actions of the Associations to encourage repayment of loans has had an demonstrable and positive impact on the default rates," says Foran.

The default data used in the Secretary's press release were for those loans going into repayment in fiscal 1988. Most of those students borrowed in 1987 or earlier, prior to the implementation of borrowing limitations legislated by the Congress, the default regulations promulgated by Secretary Cavazos, and the default management programs established by AICS and other associations.

Foran went on to note several other "facts" which lead to a misperception about the status of the default issue:

o Of the 89 institutions cited by the Secretary, 31 (or 35%) are closed.

- The "closed" institutions made up $145 million (or 39%) of the $365 million in default at the 89 institutions identified by the Secretary.

- Of the remaining 58 institutions, seven are in Chapter 11 bankruptcy status or under a legal stay and 19 are under a special accreditation review.

- Contrary to the Secretary's implication, many of the school closings occurred because of accrediting commission actions, not actions of the Department of Education.

- Many of the remaining schools use aggressive and novel approaches to loan collection which will undoubtedly have more positive results on their default rates.

- Only 8,000 of the 10,000 postsecondary institutions in the United States are eligible for the federal student loan programs.

- The Secretary's press release gives the impression that only a few accrediting bodies are involved in the majority of the so-called problem. While there are approximately 100 accrediting agencies in the country, less than 25 of them are institutional accrediting agencies from which federal student aid eligibility derives. Most of the accrediting agencies recognized by the

Secretary are specialized accrediting agencies which have little or no involvement in the federal eligibility issue.

o While the 89 schools cited by the Secretary have large default volumes on the surface, many of those institutions have several branches each. The institutions cited by the Secretary probably have up to 300 locations throughout the country.

Phillips affirmed that the default problem is a real one, but that accreditation's involvement in the issue should be limited. The focus of accreditation should be on matters related to educational quality, not federal student aid. The Department of Education should have the primary responsibility for overseeing the administration of the federal student aid programs, including the loan default issue.

Phillips urged the Department to work pro-actively with the accrediting agencies in evaluating educational quality and, in so doing, not further confuse role distinctions. Phillips stated that the Department of Education reviews the files of AICS-accredited institutions during the recognition process and at other times upon request.

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Senate Permanent Subcommittee
on Investigations

EXHIBIT # 31

SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS
COMMISSION ON OCCUPATIONAL EDUCATION INSTITUTIONS
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September 24, 1990

The Honorable Sam Nunn
Chairman
Senate Permanent Subcommittee on Investigations
Committee on Governmental Affairs
Washington, D.C. 20510-6250

Dear Senator Nunn and Members of the Committee:

This is in response to your letter dated September 5, 1990 in which you invited me to submit a written statement for the Senate Permanent Subcommittee on Investigations' hearing record. We sincerely appreciate the opportunity to present our views and recommendations regarding the operation of the Federal student aid program, licensing, accreditation, eligibility/certification, and media criticism among other issues.

Certainly, everyone who is familiar with student aid and loan defaults is seriously concerned about how to reduce the default rate of students without unfair denial of access to Federal loans and grants particularly to those untrained and disadvantaged who need training most. Fraud and abuse of the programs--whether by students or by unscrupulous proprietary school operators or by a school's failure to teach--are problems which reach across the entire spectrum of educational, social, banking, and legislative agencies. There is no one culprit nor any one solution. And while it is counter-productive to say the problems are too big for any one agency to handle, it is also equally counter-productive to place the blame for fraud and abuse at the door of any one particular agency or group. Rather, it is hoped that all groups, agencies and organizations will work together toward ameliorating defaults, fraud, abuse, and inequality of training opportunities.

Equal Access of Opportunity

One of our concerns is equal access of opportunity for students to obtain appropriate occupational skills for entry into the mainstream of America's workplace. The proprietary trade school and the public postsecondary vocational school are the two places where those who have been failed by public schools can obtain necessary skills. These schools also serve a tremendous national and international need for retraining, upgrading and certifying millions of workers who must seek new skills during a period of significant economic and technologic change. The dependency upon these institutions is expected to increase as military training programs are reduced. It is evident from the trend of public postsecondary vocational schools toward offering more two year degree programs and less diploma/certificate programs that untrained, disadvantaged adults and those seeking retraining will be compelled to seek occupational skills from proprietary schools in greater numbers in the very near future. And unless circumstances change drastically, the proprietary school may become their major source of training by the next decade.

USDE's Use of News Media Creates Inaccurate View of Accrediting Bodies

Since this Commission desires to work cooperatively in attempting to ameliorate fraud and abuse of federal programs, we are very concerned about the manner in which USDE has turned to the media and used it to focus attention unfairly upon accrediting agencies. The USDE news release (See Exhibit #1 attached.) dated September 10, 1990, for example, relates high default rates with certain proprietary schools and suggests that accrediting bodies must hold high default rate schools accountable. The article notes that USDE will review actions that accrediting agencies have taken toward high default rate institutions. Attached to this news release is a list of 89 schools cited for high default rates and high volume of loans in default. Indeed, many of these are bad schools. Some were bad schools before the default rates were published--even before the final USDE audit was published a year after the school was closed down. Anyone looking at this list would assume, however, that all of the schools listed are still in business and the accrediting bodies have done nothing about them. This is simply not true!

Of the 10 listed schools shown as accredited by SACS/COEI, six have closed under conditional status with the Commission; one school is presently under Warning, and the three remaining institutions are currently in good standing. One has to wonder why USDE did not verify within its own record system or with the accrediting agencies the schools that are closed and the conditions under which each closure occurred before issuing such an important statement.

USDE's Default Lists Contain Outdated, Inaccurate and Misleading Information

Serious harm can result from the specious or inaccurate publication of default lists such as the list of 117 institutions with their purported accreditation under SACS/COEI as published by USDE under IRMS September 4, 1990 (See Exhibit #2 enclosed.). Approximately 16 of these schools are closed, several as an indirect or direct action of COEI. At least 10 listed schools are presently on conditional status. One of the schools listed has never been accredited by SACS; at least two schools on the proprietary school list are not proprietary but public vocational institutions, thus revealing the lack of accuracy of such lists.

There are also schools listed as having high default rates which, by any standards of reasonableness and common sense, should not be on a nationally published list when publication may bring notoriety to the institutions named. The most blatant examples are SACS/COEI accredited Barrett & Company School of Hair Design, Kentucky, which placed one loan and thereby had one default for a 100% default rate; and, Sidney N. Collier Memorial Vocational Technical School in Louisiana, a public school, which made two loans and had two defaults for a 100% default rate. Although we all make mistakes, it does appear that USDE would be a bit more accurate and fair-minded in presenting information to the public. After all, there are enough problems without making them appear larger than they really are.

Relationship Between Program Quality and Default Rate Unclear and Unproven

COEI is quite concerned about what USDE claims is a causal relationship between high default rate and quality of schooling. For sure, many admittedly bad schools do have high default rates; but they can be put out of business because they are in fact bad, not necessarily bad because they recruit the disadvantaged, default prone student. It can be shown, however, that high quality schools have a high default rate, too. There does not seem to be any empirical evidence to show that default rate is in any way an indicator of educational quality. There does appear to be considerable evidence that high default rates may be associated with social, economic and cultural issues which reach into the very fabric of how America raises and schools its children, teaches them values of right and wrong, and holds them responsible for their behavior as adults. Many students who choose to attend a bad trade school as opposed to a good one do so because they are attracted by powerful advertising that promises a dream. It is rather like investing your savings in lottery tickets. If we were educated to use better judgement, then there would be fewer victims and the lottery would fail to produce appropriate education funds.

Reward or Punishment for the Disadvantaged Graduates

There is a moral and ethical dilemma when considering that so many disadvantaged adults enter proprietary training programs oftentimes as a last gasp effort to break the welfare cycle and to enter the mainstream workforce. When this individual attends classes regularly, graduates, and obtains employment--even entry level employment--this person has overcome incredible odds. Given that this man or woman usually has dependent children to support, small wonder that the loan ends in default. Should this person not receive special consideration when paying back the loan? Perhaps instead of a system of penalties, there ought to be some rewards for having persevered through school, graduated, gotten a job, and stayed on the job more than a few months. Forgiving part of the loan or setting up a reduced payment schedule would go a long way toward keeping such individuals in the mainstream. If such persons have attended a "bad" school, perhaps they ought to be rewarded with a scholarship to a good one; they have shown their metal. Forgiving a federal debt and rewarding those who really try are fundamental tenets of American democracy. Some schools which have been identified as having high default rates may also be schools which are doing the most to assist the disadvantaged students.

Courts Involved in Accrediting Decisions

For the first time since it was founded in 1895, the Southern Association of Colleges and Schools and COEI have found themselves embroiled in litigation with schools COEI has dropped. The experience has been at once enlightening, expensive, and not necessarily encouraging. Although SACS/COEI won two of the three cases, there is serious concern regarding whether an accrediting body comprised of voluntary members actually does have the right to expel a member which is not abiding by its criteria or whether such matters ultimately rest in the hands of the courts.

A federal court in 1990 has found on the side of the plaintiff when COEI attempted to drop a school after appropriate due process for failure to abide by dual accreditation, refund, branch management, and other criteria. In fact, this same school has been charged with serious felonies on the part of no less than 18 employees, seven of whom have been found guilty. This school continues to operate today under protection of the federal court's decision as well as protection under chapter 11 bankruptcy law. Any efforts made by the accrediting body to monitor this school's activities may be interpreted by the courts as "harrassment."

We believe that such actions by the courts seriously undermine the intent and integrity of accrediting bodies. Our recommendation would be that USDE request the Department of Justice to enter such cases as amicus or as voluntary defendants to assist in eliminating unscrupulous operators from the school business. Accrediting bodies simply do not have the financial resources to defend by themselves against wealthy, but unscrupulous school operators.

Anyone Can Start or Buy a School

Our experience has been that it is difficult to keep unethical persons out of the proprietary school business if they seriously want to enter it. They arrive with plenty of money, establish what appears to be a first rate school facility, hire good instructors, and install excellent equipment and materials. In other words, their institution receives a state license, enrolls students for at least one year, and demonstrates to COEI that the school meets eligibility criteria. Once in operation with federal funds, this organization utilizes a variety of schemes by which to commit fraud and abuse. Fortunately, COEI's compliance process and complaint procedures bring to light some of these abusers, but not always. It appears likely that some of these operators hire experts just prior to a site visit to "vacuum" the files and hide any evidence of wrongdoing. Our evaluators have gone into schools suspected of fraud and abuse to find files so perfect that there were not even any typographical errors or ordinary clerical mistakes.

Non-Profit Proprietary Schools Potential Abusers

There is much evidence that the non-profit, private sector school is another potential abuser. Under current laws, a non-profit school can be established under IRS 501 c. 3 approval and receive federal funds the moment it is made a candidate for accreditation. A candidate is a school which has met COEI eligibility criteria, but has not necessarily met all the conditions of full accreditation. The candidate school is given up to three years to meet our criteria for full membership. Therefore, it is possible for a candidate school to operate for up to three years in a non-compliant manner and receive federal funds during this time.

The Commission has found that the unscrupulous operator can use non-profit status to deceive the public into believing the school is established for altruistic purposes and is operated in a cost effective manner when it is not. And since a non-profit school is not owned but controlled by a board of directors, there can be a great amount of wheeling and dealing. Loans can be made to directors and officers; friends and relatives can be hired into positions for which they are not qualified; consultants can be hired to perform dubious work; other bogus companies can be formed to perform services for the school; and by these means, taxes can be evaded.

While the Commission respects legitimate non-profit schools, it is evident that some individuals set up bogus non-profit school corporations purely for the purpose of skimming federal dollars into their own pockets through otherwise legal means.

Students Also Potential Federal Aid Abusers

There is recent evidence to suggest that some students are taking advantage of the federal aid program by enrolling in more than one school at the same time and obtaining money by this means. According to one source, such students check out the lender to be sure it is different for each school. They feel certain that the lenders will not screen their applications or check their credit or social security number. Once the money has been obtained, these students disappear. The defaults on such students have led some school operators to discriminate against persons they consider to be high risk defaulters.

Program Stretching Potential for Abuse

It appears that a trend may be developing to "stretch" unnecessarily programs to qualify for Stafford Loans or Pell Grants or to simply extract additional tuition from paying students. This practice would be deemed unethical under current COEI policies. It is difficult to prove, however, since length of training criteria have not been established in most industries. Where state or national licensure or certification of training exist, the criteria are set forth in such as way as to eliminate this practice. Although COEI accredits the whole institution, it does monitor and approve all significant substantive changes occurring there. Any change in program length requires a new application and state or special license approval as well as Commission approval. (Please refer to Exhibit #3 for additional information regarding COEI's position and examples of how stretching evolves within a short period of time.)

Strengthening Accrediting Criteria and Evaluation

In view of the rise in fraud and abuse among proprietary schools, the Commission has made a serious effort during the past three years to strengthen its accreditation criteria and its evaluation of prospective and member schools. Particularly, the Commission has done the following:

- **Limits On New Branching:** The Commission has found that proprietary schools which open several branch campuses quickly lose control of their operations in too many instances. Abuse can become rampant within a short time. Today, COEI will allow only one application for the establishment of a branch or extension to be submitted at a time. The branch or extension must have an on-site visit and be approved by the Commission before an application for a second branch or extension will be accepted. Applications must show financial stablity. Since the Commission meets quarterly, this limits branching to four or less per year.

- **Change of Branch to Main Campus Restrictions:** Schools desiring to change branches into main campuses for the purpose of selling them or establishing independent operations must undergo rigorous self-evaluation and receive a full compliance visitation before the Commission will approve the request.

- **Putting School Changes on Hold:** Whenever a school is placed under apparent deficiency, warning, probation or show cause status for apparent or real violations of COEI policies, standards and procedures, the institution is not allowed to make any substantive changes until the conditional status is removed. Substantive changes may include moving the school, adding or changing programs, changing the name of the school, or adding a branch campus to name a few.

• **New Application Fees:** A schedule of fees has been introduced. Whenever a school applies for certain substantive changes, it must send a check to cover the cost of processing the change. The fees have enabled the Commission to hire additional staff and to provide for legal and financial consultants who assist in the accreditation review process. Utilizing the expertise of accountants and attorneys has uncovered evidence of fraud and abuse of Federal programs as well as violations of accrediting standards and policies.

• **New Penalties In Place:** A set of penalties are being meted out for failure to comply with deadlines or mandates. Schools failing to notify the Commission about planned or unplanned substantive changes, for example, must pay a stiff penalty in addition to receiving censure in the form of being placed on conditional status. Failure to submit an annual report on time, which is one means COEI determines whether or not the school is complying with its accreditation criteria, also results in a penalty.

• **Use of Detailed Applications and Evaluation Checklists:** Schools must complete an application for virtually every sort of substantive change, including name change, new branch or closing of a campus. Checklists are used by site team visitors to ensure that evaluations of schools are consistent, thorough, and without bias. Findings are set forth in a prescribed manner. As a result, there is reasonable empirical evidence at hand for the Commission to arrive at fair and accurate decisions. In addition, staff and evaluators are better able to identify potential violations of policies and standards.

• **Increased Training and Closer Examination of Programs:** Staff and site team evaluators are being trained to challenge the bases upon which schools offer programs which appear to have little value or where there is not a logical relationship between program length, cost, and probability of placement on a job after graduation. Institutions offering Ability to Benefit programs are now challenged to provide their rational for admitting ATB students. School evaluators are learning how to examine school records to determine whether the institution is paying refunds on time.

• **Enforcing Policies on Ethics and Integrity:** Where it appears that a school may be misrepresenting itself to the public through false statements, advertisements, or in publications, the Commission is acting swiftly to place such institutions on a conditional status. If the school cannot come forth with reasonable explanations or remedies, its accreditation is placed in immediate jeopardy. New policies regarding advertising and the manner in which a school may show its accreditation affiliation have resulted in several institutions having to change their practices or face expulsion.

• **Use of Electronic Files:** The Commission is developing an elaborate computerized file system which is capable of tracking all substantive changes, former and present status, programs, and financial ratio data over time. The various reports generated provide the Commission with a profile of the institution. The system also enables staff to monitor school operations closely on a daily basis.

- **Consistent, Effective and Swift Due Process:** COEI provides every school that has been found to be in serious violation of its policies, standards and procedures with a series of opportunities to come forth with reasons and evidence why it should not be dropped from accreditation. Even after being dropped, the institution has the right to appeal the decision. The steps of due process employed by the Commission have resulted in many bad schools either withdrawing from accredition or else being dropped. In worst cases, it is possible for the Commission to drop a school within thirty (30) days for a serious violation of ethics and integrity. Retaining competent legal and financial consultants has assisted the Commission in arriving at sound decisions and consistently applying its due process mechanisms.

- **Informing Other Agencies of COEI Actions:** Whenever a member school is placed on probation, warning or show cause for serious violations, the Commission notifies all appropriate agencies of its actions. This also occurs whenever a school withdraws its membership or is dropped from accreditation. We find this a most effective means of curbing abuse since other agencies can also respond appropriately.

The results of these efforts to strengthen and enforce our criteria are clear: several schools identified by COEI, USDE and state agencies as abusers of federal loan programs have been dropped from accreditation for serious violations of our policies, standards and procedures. Many others have been placed on conditional status whereby they must either come into compliance within a certain time or face expulsion.

A Need for Greater Agency Communication and Cooperation

Despite every effort of COEI to curb fraud and abuse through application of its own accreditation criteria, there is no question but what some unethical operators escape notice of many agencies. I am speaking about the school operator who quietly defrauds the government of thousands or millions of dollars and then disappears or else announces the school is closed. By the time state and federal regulators and accrediting agencies learn about it, the school doors have been padlocked, students are picketing, and the owners/operators have fled the scene or declared bankruptcy. It is suggested that an early warning system of communication be permitted whereby all agencies, including the loan guarantors and higher education assistance corporations, be able to alert others to such actions as audit results, evidence of failure to pay refunds on time, high dropout of students, evidence of financial instability, evidence of mismanagement, placement on administrative hearing, reimbursement, financial reporting, etc. Such a practice would eliminate much of the abuse.

The Commission does not receive on a regular basis essential information from the various Federal and state agencies, although several have been requested to furnish same and staff maintains dialog with some of them. And all too often, the information received is too late to do any good. An example of this occurred recently when a final audit report was issued by USDE on a school that has been closed for nearly a year. The operator of this particular school vanished from the scene many months ago.

In summary, every federal, state and accrediting agency as well as legislative bodies must work together on these problems with a desire for fairness, good faith and prudent judgement. We cannot expect easy or quick answers to the problems of how to administer federal loan and grant programs equitably and without abuse. Please know that COEI will do everything possible within its scope of accrediting responsibilties to improve educational opportunities in the eleven state Southern region. As an accreditor of public vocational schools as well as private sector proprietary schools and government agency and industrial training institutions, we believe that we have a unique as well as balanced perspective on these matters. We want to be part of the solution, not part of the problem.

Thank you, Senator Nunn and Members of the Committee, for asking the Commission to share its views and recommendations. If we can assist you in any way, please let us know.

Sincerely,

Kenneth W. Tidwell
Executive Director
Commission on Occupational Education Institutions

KWT/bc

Enclosures

LIST OF EXHIBITS

as

Letter Enclosures
for
Senate Permanent Subcommittee on Investigations

from

The Commission on Occupational Education Institutions
Atlanta, Georgia

September 24, 1990

- **Exhibit #1 - USDE News Release with 89 Schools cited for High Default Rates**

- **Exhibit #2 - USDE/IRMS Sept 4, 1990 List of SACS/COEI Proprietary Schools with Default Rates**

- **Exhibit #3 - COEI's Position on Program Stretching with Possible Examples**

UNITED STATES
DEPARTMENT OF EDUCATION NEWS

FOR RELEASE
September 10, 1990

Contact: Rodger Murphey
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CAVAZOS CALLS FOR ACCREDITATION IMPROVEMENTS

Based on a new analysis of student loan default data, U.S. Secretary of Education Lauro F. Cavazos today announced actions directed at 89 schools with high default rates and high volume of loans in default and the seven agencies that accredit them.

A review of data, regarding borrowers scheduled to begin payment of their guaranteed student loans in 1988, showed that more than 30 percent of all defaulted loans -- $365 million -- was owed by borrowers who attended less than one percent of the nation's 10,000 postsecondary institutions. The majority of these 89 schools are accredited by seven of the nation's more than 100 accrediting agencies.

Cavazos announced that he is directing the federal advisory committee charged with oversight of accrediting agencies (the National Advisory Committee on Accreditation and Institutional Eligibility) to scrutinize the policies of the seven agencies. Cavazos also directed Assistant Secretary for Postsecondary Education Leonard L. Haynes III to meet with the heads of the seven agencies and urge them to review their policies and procedures for institutional accreditation.

"It is reasonable to expect that the level of student loan defaults at a school is related to the quality of its program," Cavazos said. "I am convinced that any accrediting agency that takes its role seriously must focus on educational effectiveness and must be concerned that institutions with high default rates are held accountable."

-MORE-

The federal advisory committee recommends to the Secretary which accrediting agencies should be recognized. Recognized agencies, in turn, accredit schools -- a step necessary before schools can participate in federal student aid programs.

The seven accrediting agencies are:

-- The Accrediting Bureau of Health Education Schools (ABHES);

-- The Accrediting Council for Continuing Education and Training (ACCET);

-- The Association of Independent Colleges and Schools, Accrediting Commission (AICS);

-- The National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS);

-- The National Association of Trade and Technical Schools, Accrediting Commission (NATTS);

-- The National Home Study Council, Accrediting Council (NHSC);

-- Southern Association of Colleges and Schools, Commission on Occupational Education Institutions (SACS).

Cavazos also announced that the Education Department is conducting program or administrative reviews of the 89 institutions which remain open. Some of the 89 institutions have already closed due to actions by the Education Department and other reasons.

The Secretary's other actions to reduce defaulted student loans include:

-- reviewing the financial status of the institutions;

-- reviewing actions that the accrediting agencies have taken toward the institutions;

-- strengthening the Department's procedures for terminating institutions from the student financial aid programs.

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NOTE TO EDITORS: Attached is a list of the 89 schools cited for high default rates and high volume of loans in default.

88 COHORT HIGHEST DEFAULT INSTITUTIONS 9/7/90

	NAME	ST	ACCRED	DEFAULT RATE	DEFAULT AMOUNT
1	CAMBRIDGE TECHNICAL INSTITUTE	OH	ACCET	81.5%	$8,282,384
2	SAWYER COLLEGE	OH	AICS	79.9%	$1,811,919
3	METILS WELDING SCHOOL	TX	SACS	69.0%	$4,122,416
4	VOCATIONAL TRAINING CENTER	MO	NATTS	68.0%	$3,681,768
5	TARKIO COLLEGE	MO	NCA	67.3%	$4,272,695
6	AMERICO TECHNICAL CAREERS INSTITUTE	LA	SACS AICS	66.1%	$2,461,492
7	HEALTH CARE TRAINING INSTITUTE	TN	SACS	65.6%	$5,107,718
8	CALIFORNIA INSTITUTE	CA	ABHES	65.4%	$5,308,551
9	HAUSMAN COMPUTER ASSOCIATES SCH OF COMPUTER PROGRAMMING	NY	NATTS	63.5%	$3,381,844
10	DOROTHEA B LANE SCHOOLS	MD	AICS	63.5%	$1,643,009
11	DRET SCHOOL	OH	ACCET	60.5%	$5,711,787
12	AMERICAN COLLEGE	AR	AICS	60.1%	$5,338,291
13	ROYALE BEAUTY COLLEGE	IL	NACCAS	59.5%	$1,738,339
14	DELTA JUNIOR COLLEGE	LA	AICS	54.4%	$2,162,427
15	USA TRAINING ACADEMY, HOME STUDY	DE	NHSC	53.1%	$24,727,598
16	FIRST BUSINESS SCHOOL (THE)	IL	AICS	52.4%	$3,311,536
17	INTERNATIONAL TRAINING	CO	NATTS	51.3%	$3,324,354
18	EMPIRE TECHNICAL SCHOOL	NY	NATTS	50.3%	$2,495,989
19	CHAUFFEUR'S TRAINING SCHOOL	NY	NATTS	49.8%	$6,963,114
20	ARIZONA INSTITUTE OF ELECTROLYSIS DIV UNIF SCH OF AME	AZ	NATTS	49.3%	$3,125,629
21	APOLLO BUSINESS AND TECHNICAL SCHOOL	NV	AICS	49.2%	$1,587,415
22	UNITED COLLEGE	FL	SACS C	49.0%	$4,263,931
23	PROFESSIONAL CAREER CENTERS	TX	NATTS	49.0%	$7,602,935
24	SOUTHERN TECHNICAL COLLEGE	OK	NATTS ABHES	48.3%	$4,621,333
25	DELTA CAREER COLLEGE	LA	AICS	47.7%	$3,194,509
26	BARCLAY CAREER SCHOOLS	NY	AICS	47.1%	$7,543,109
27	LAWTON SCHOOL FOR MEDICAL AND DENTAL ASSISTANTS	CA	NATTS	47.0%	$7,815,680
28	JEFFERSON BUSINESS COLLEGE	DC	AICS	46.7%	$3,542,758
29	RILEY COLLEGE	AL	SACS	46.5%	$1,682,247
30	CBM EDUCATION CENTER	TX	NATTS	46.4%	$2,974,281
31	PTC CAREER INSTITUTE	PA	NATTS	45.6%	$6,468,158
32	GENERAL EDUCATION AND TRAINING - HOME STUDY	MO	NATTS	45.1%	$4,556,977
33	INSTITUTE OF SECURITY AND TECHNOLOGY	PA	NATTS	44.6%	$2,367,190
34	WATTERSON COLLEGE	KY	AICS	44.3%	$2,809,810
35	AMERICAN BUSINESS INSTITUTE	CA	AICS	43.8%	$2,588,128
36	EMPIRE CAREER CENTER	NY	NATTS	43.8%	$3,030,806
37	SUPERIOR TRAINING SERVICES	IL	NATTS	43.8%	$3,410,020
38	TEXCEL CAREER CENTER	TX	SACS C	43.6%	$1,803,199
39	BARCLAY COLLEGE	CA	AICS	43.1%	$6,938,285
40	SUPERIOR TRAINING SERVICES	AZ	NHSC	43.0%	$27,044,040
41	GEORGIA SCHOOL OF BARTENDING	GA	ACCET	43.0%	$2,701,355
42	TRAINCO BUSINESS SCHOOL	IL	AICS	42.5%	$4,916,938

43	TRANSWESTERN INSTITUTE	CA AICS	42.4%	$2,243,026
44	ROBERT FIANCE INSTITUTE OF FLORIDA	FL NACCAS	42.2%	$2,299,041
45	JAY TRUCK DRIVER TRAINING CENTER	MO NATTS ACCET	42.1%	$2,561,991
46	LONG BEACH COMMUNITY COLLEGE DISTRICT	CA WASC	42.1%	$1,595,222
47	UNITED STATES TRUCK DRIVING SCHOOL	CO NATTS	41.6%	$3,034,952
48	UNITED CAREER CENTER	FL SACS c	41.3%	$3,184,405
49	ROBERT FIANCE HAIR DESIGN INSTITUTE	NY NACCAS	40.4%	$4,622,113
50	HARGEST VOCATIONAL TECHNICAL COLLEGE	TX AICS	39.9%	$1,515,069
51	INTERNATIONAL INSTITUTE OF TRANSPORTATION RESOURCES	OR ACCET	39.6%	$3,395,320
52	SOUTHERN OHIO COLLEGE	OH AICS	39.2%	$3,959,469
53	ASSOCIATED TECHNICAL COLLEGE	CA NATTS	38.9%	$5,375,342
54	NORTH AMERICAN EDUCATION CENTER	LA SACS c	38.3%	$1,737,815
55	TRI-STATE SEMI-DRIVER TRAINING	OH ACCET	38.2%	$7,035,720
56	AMERICAN TRADES INSTITUTE	TX NATTS	37.9%	$1,723,559
57	WILFRED ACADEMY OF HAIR & BEAUTY CULTURE	NY NACCAS	37.9%	$2,142,243
58	BERK TRADE & BUSINESS SCHOOL	NY NATTS	37.6%	$3,130,014
59	AMERICAN HI-TECH BUSINESS SCHOOL	NY AICS	36.9%	$7,604,673
60	DIESEL TRUCK DRIVER TRAINING SCHOOL	WI NATTS	36.7%	$2,373,731
61	ROBERT FIANCE HAIR DESIGN INSTITUTE	NY NACCAS	36.3%	$2,451,376
62	MILWAUKEE-AREA TECHNICAL COLLEGE	WI NCA	36.0%	$1,929,674
63	COASTAL TRAINING INSTITUTE	AL SACS c ?	36.0%	$2,211,110
64	WILFRED ACADEMY OF HAIR AND BEAUTY CULTURE	NY NACCAS	35.2%	$1,775,670
65	SOUTHWEST COLLEGE	CA NATTS	35.1%	$3,682,451
66	APEX TECHNICAL SCHOOL	NY NATTS	34.8%	$5,550,740
67	OKLAHOMA JUNIOR COLLEGE OF BUSINESS AND TECHNOLOGY	OK AICS	34.1%	$1,603,226
68	NATIONAL TRAINING - HOME STUDY	FL NHSC	33.8%	$2,280,085
69	AMS COLLEGE, HOME STUDY DIVISION	CA NHSC	33.4%	$3,183,163
70	ROYAL BUSINESS SCHOOL	NY AICS	31.7%	$1,807,998
71	UNITED SCHOOLS	FL NHSC	30.5%	$11,423,808
72	SOUTHERN UNIVERSITY AND A&M COLLEGE	LA SACS	30.3%	$2,964,415
73	COMMERCIAL PROGRAMMING UNLIMITED	PA AICS	29.6%	$1,594,804
74	MANSFIELD BUSINESS COLLEGE	TX AICS	29.5%	$5,642,388
75	AMERICAN CAREER TRAINING TRAVEL SCHOOL	FL NHSC	29.1%	$5,519,463
76	WILSHIRE COMPUTER COLLEGE	CA AICS	28.9%	$1,780,571
77	ST MARY OF THE PLAINS COLLEGE	KS NCA	28.8%	$6,502,863
78	NEW ENGLAND TRACTOR TRAINING SCHOOL	MA NATTS	28.5%	$1,733,647
79	CLIMATE CONTROL INSTITUTE	OK NATTS	28.2%	$4,384,231
80	MOUNTAIN STATES TECHNICAL INSTITUTE	AZ NATTS	27.6%	$1,735,809
81	CAREER POINT BUSINESS SCHOOL	MO AICS	26.3%	$2,486,980
82	AMERICAN BUSINESS INSTITUTE	NY AICS	24.4%	$4,722,005
83	STAUTZENBERGER COLLEGE	OH AICS	23.7%	$1,545,914
84	CONCHO CAREER INSTITUTE	TX SACS c	23.4%	$1,999,927
85	GOLDEN STATE SCHOOL	CA NATTS	23.4%	$1,992,305
86	SOUTHWEST TECHNICAL COLLEGE	OK NATTS	22.6%	$2,711,742
87	COUNTY SCHOOLS - HOME STUDY	CT NHSC	22.6%	$3,113,151
88	VIDEO TECHNICAL INSTITUTE	TX NATTS	21.9%	$2,178,391
89	NATIONAL EDUCATION CENTER, BRYMAN CAMPUS	TX NATTS	20.4%	$2,039,283
	TOTAL			$364,516,859

[illegible]

hibit #2 - USDE/IRMS Sept 4, 1990 List of SACS/COEI Proprietary Schools with Default Rates

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2 FAYETTEVILLE BEAUTY COLLEGE	NC	SACS	2	2	50.0%	$1,[illegible]	[illegible]	3[illegible]
SOUTHERN TECHNICAL COLLEGE	MS	SACS	4	[illegible]	[illegible].5%	$9,[illegible]	[illegible],860	1[illegible]
SEBRING CAREER SCHOOLS	TX	SACS	[illegible]	2	50.0%	$4,[illegible]	$5,[illegible]	3[illegible]
5 SOUTHEASTERN CENTER FOR ARTS	GA	SACS	2	1	36.7%	$3,[illegible]	[illegible]	[illegible]
3 GARRETT & COMPANY SCHOOL OF HAIR DESIGN	KY	SACS	[illegible]	[illegible]	[illegible]	$3,328	$2,957	4[illegible]
DERMA CLINIC ACADEMY OF MAKE-UP & SKIN CARE ESTHETI	GA	SACS	1	2	[illegible]	$2,847	$6,620	37
8 BETTY STEVENS COSMETOLOGY INSTITUTE	SC	SACS	[illegible]	7	14.5%	$2,814	$17,[illegible]	32
7 CANTWELL COLLEGE OF BEAUTY	FL	SACS	[illegible]	17	5.9%	$3,761	$55,750	32
4 SEGUIN BEAUTY SCHOOL	TX	SACS	3	9	33.3%	$2,67[illegible]	$14,[illegible]	32
6 SIDNEY N COLLIER MEMORIAL VOCATIONAL TECHNICAL SCH	LA	SACS	2	2	100.0%	$2,271	$2,[illegible]	22
JOCELYN DASPIT BEAUTY COLLEGES, JEFFERSON BRANCH	LA	SACS	[illegible]	3	50.0%	$1,313	$2,263	32
3 NEW IMAGE COLLEGE OF COSMETOLOGY	KY	SACS	[illegible]	[illegible]	9.1%	$1,18[illegible]	$26,250	32
3 PHOENIX COLLEGE OF PASCAGOULA	MS	SACS	[illegible]	1,124	36.0%	$1,[illegible]	$3[illegible]	32
SOUTH LOUISIANA BEAUTY COLLEGE	LA	SACS	[illegible]	17	5.9%	$263	$47,050	3[illegible]

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[illegible] COLLEGE FOR THE [illegible]	[illegible] SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] COLLEGE OF COSMETOLOGY AND BARBERING	[illegible] SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SOUTHERN BUSINESS SCHOOL	[illegible] SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ALFRED ACADEMY OF HAIR AND BEAUTY CULTURE	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ALFRED ACADEMY OF HAIR AND BEAUTY CULTURE	[illegible] SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
DRAUGHON'S JUNIOR COLLEGE	AL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
BAUDER FASHION COLLEGE	GA SACS	NATTS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
CONCORDE CAREER INSTITUTE	TN SACS		52	[illegible]	[illegible]	[illegible]	[illegible]
CLARENDON COLLEGE	[illegible] SACS		22	[illegible]	[illegible]	$45,275	[illegible]
KENTUCKY POLYTECHNIC INSTITUTE	KY SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
HOUSTON TRAINING SCHOOLS	TX SACS		58	[illegible]	[illegible]	[illegible]	[illegible]
NORTH ALABAMA COLLEGE OF COMMERCE	AL SACS	AICS	34	[illegible]	79.5%	[illegible]	[illegible]
[illegible] COLLEGE	AL SACS		35	[illegible]	[illegible]	[illegible]	[illegible]
JOHN AMICO'S SCHOOL OF HAIR DESIGN	FL SACS		24	[illegible]	[illegible]	[illegible]	[illegible]
AMERICAN VOCATIONAL SCHOOL	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
CHRIS LOGAN CAREER COLLEGE	SC SACS		[illegible]	[illegible]	[illegible]	$47,226	[illegible]
MR. DAVID'S SCHOOL OF HAIR DESIGN (CLOSED)	NC SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	TX SACS		[illegible]	[illegible]	25.8%	[illegible]	[illegible]
[illegible]	[illegible] SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
TEMPLE ACADEMY OF COSMETOLOGY	[illegible] SACS		[illegible]	99	[illegible]	[illegible]	[illegible]
ALPHA BEAUTY SCHOOL	SC SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] ASSOCIATED TRUCK DRIVING SCHOOL	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] COLLEGE OF HEALTH SCIENCES	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
CAREER TECHNICAL INSTITUTE	TX SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] COLLEGE OF HAIR DESIGN	KY SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] BEAUTY SCHOOL	TN SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] COLLEGE OF TECHNOLOGY	FL SACS	NATTS	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
INTERNATIONAL FINE ARTS COLLEGE	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SPENCER BUSINESS SCHOOL	[illegible] SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
CREATIVE SCHOOL OF BEAUTY	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
VIRGINIA SCHOOL OF COSMETOLOGY	VA SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SARASOTA COUNTY VOCATIONAL-TECHNICAL CENTER	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
BROADWAY TECHNICAL INSTITUTE	TX SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] COLLEGE OF COSMETOLOGY	TN SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] CENTER	GA SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ALFRED ACADEMY OF HAIR AND BEAUTY CULTURE	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
CAROLINA BEAUTY SYSTEMS	NC SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
BROWN COLLEGE OF COURT REPORTING AND BUSINESS	GA SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] COMMERCIAL COLLEGE	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] COLLEGE	TX SACS	N,A	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ROANOKE ACADEMY	NC SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SOUTHWEST LOUISIANA VOCATIONAL-TECHNICAL SCHOOL	LA SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
CHARZANNE BEAUTY COLLEGE	SC SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
INTERNATIONAL SCHOOL OF SKIN AND NAILCARE	GA SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SYSTEMS TECHNOLOGY INSTITUTE	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
MABLE BAILEY FASHION COLLEGE	GA SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SOUTHEASTERN PARALEGAL INSTITUTE	TN SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
TRI-STATE BEAUTY ACADEMY	KY SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
FLORIDA INTERNATIONAL COLLEGE	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] COLLEGE OF COSMETOLOGY	KY SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] TRAINING CENTER	TX SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
CHARLESTON COSMETOLOGY INSTITUTE	SC SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ALFRED ACADEMY OF HAIR AND BEAUTY CULTURE	FL SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible] HAIR SCHOOL	GA SACS		[illegible]	[illegible]	27.8%	[illegible]	[illegible]
[illegible] COLLEGE	[illegible] SACS		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

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The COEI Perspective on Program Length

The Commission does not have criteria governing program length. However, COEI is concerned whenever training does not appear to be appropriate either for the student or for the employer of the graduate. The Commission is concerned, for example, when a program does not appear to be of sufficient length to provide reasonable skills for entry level jobs. In instances where it appears that a school is extending or increasing a program beyond reasonable length, COEI is equally concerned. The Commission will normally ask the following when it appears that a program is being purposely extended:

- Provide a rationale justifying the additional hours.
- Are these increases mandated by employers?
- Are higher percentages of students being placed in jobs as a result of the additional training?
- Are there new dimensions of these occupations that now require training in order to provide competent graduates?
- Is the additional amount of ESL required due to significant changes in student capabilities?

In the examples provided, COEI staff does not make a value judgment as to whether the programs are "stretched" or not. Rather, staff asks the institution to explain why the programs have been changed. It is then up to the Commission to determine whether, in its view, the program is of appropriate length or not.

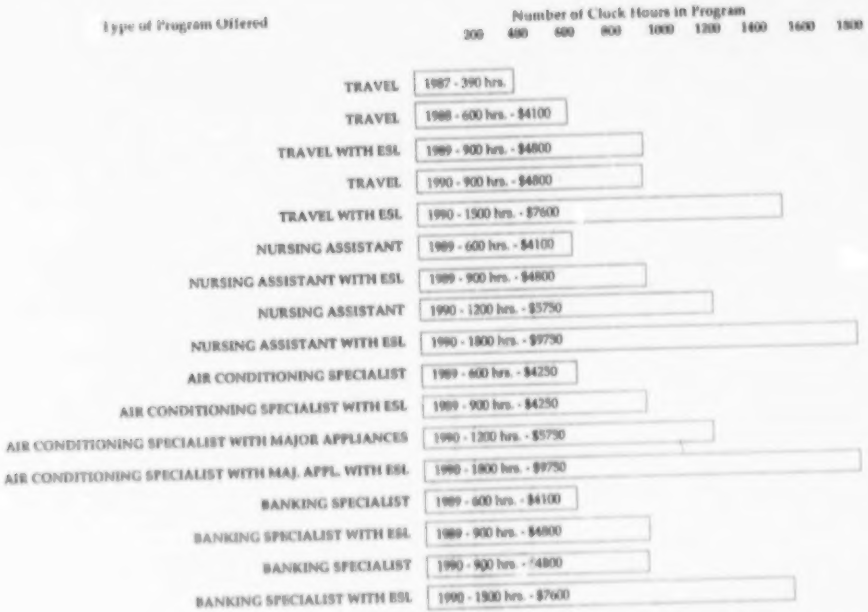
The examples presented on the following page are from one member school and are intriguing because

1. the length has been extended,
2. the students are Ability to Benefit (ATB)
3. there is an English as a Second Language (ESL) component,
4. the ESL component is taught at the front end of the programs,
5. a significant number of dropouts occur during the ESL portion and prior to the main part of the program according to enrollment data,
6. the increased program costs challenge the student to pay off large loans,
7. dropouts occurring midway through the program provide significant income to the institution,
8. entry level wages paid to placed graduates challenge the logic of program length and increased price. In other words, there is a high probability that graduates as well as dropouts will default on their Federal loans.
9. There is a distinct pattern of program expansion with nearly identical hour increases.

Certainly, a rationale can be presented which justifies program expansion, including those given on the next page. This particular school has obtained many testimonials from prospective employers and students commending the school for adding the extra hours and components to the programs. The testimonials are used to justify the expansion. Are the employers happy with the expanded programs because additional hours will result in better quality training or because they can utilize students in externships for longer periods of time for little or no cost? ESL students may welcome the additional hours of English, since they know that even 600 hours of English may be insufficient to perform their jobs.

EXHIBIT #3 - COEI'S Position on Program Stretching with Possible Examples

The above information is part of a presentation COEI staff made to the Texas Proprietary Board on September 10, 1990 at the request of Texas Education Agency.



COMMENTS:
- *Students are ATB with ESL component taught at front end of program.*
- *All ESL students taught in one class together, regardless of program.*
- *The programs are patterned and are from one school.*

The above information is part of a presentation [illegible] staff made to the Texas Proprietary Board on September 10, 1990 at the request of Texas Education Agency.

DEVRY
DeVry Inc.
2201 West Howard Street
Evanston, Illinois 60202-3696
(708) 328-8100

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 32

July 25, 1990

The Honorable Sam Nunn
Chairman, Permanent Subcommittee on Investigations
303 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Nunn:

On behalf of the students and staff of DeVry Inc., I am pleased to provide comments to the Permanent Subcommittee on Investigations. Enclosed are our recommendations for the protection and preservation of the integrity of the Federal student aid programs.

DeVry Inc. is a 59 year old postsecondary education system with a current enrollment of more than 24,000 students in Master's, Bachelor's, and Associate degree programs. DeVry and Keller Graduate School of Management institutions are accredited by the Commission on Institutions of Higher Education of the North Central Association of Colleges and Schools. The DeVry Institutes Electronic Engineering programs are also accredited by the Technology Accreditation Commission of the Accreditation Board for Engineering and Technology.

The dilemma facing higher education in the nation at large is how to prevent fraud and abuse without precluding needy students from receiving the education they need and deserve and without preventing quality institutions from providing needed educational services that foster productive, contributing citizens. The future of this nation depends on an educated workforce. As H.G. Wells said, "Human history becomes more and more a race between education and catastrophe."

The DeVry Institutes and Keller Graduate School of Management take pride in providing quality education and services to our students. It is from this viewpoint that we offer the following comments and recommendations.

If you would like to discuss this further or have questions concerning this material, please contact me or DeVry's Vice President of Governmental Relations, Sharon Thomas-Parrott.

Sincerely,

Dennis Keller
Dennis J. Keller
Chairman and Chief Executive Officer

DJK/SLT-P/sr
Attachment

DeVry Institutes · Atlanta, Georgia · Calgary, Alberta · Chicago, Illinois · Columbus, Ohio · Dallas, Texas · Kansas City, Missouri · Lombard, Illinois · Los Angeles, California · Phoenix, Arizona · Toronto, Ontario · Woodbridge, New Jersey

I. Restore the Balance Between Grants and Loans

A recent American College Testing (ACT) report by Tom Mortenson shows that in 1975, 76% of all federal aid was in the form of gift aid, including grants, scholarships, and other educational benefits. By 1988, the share of federal aid that was gift aid had dropped to 30%.

Mortenson goes on to say: "If grants remove financial barriers to college attendance then loans not only reintroduce the barriers by requiring the student to repay the student aid after leaving school, but add two additional costs to college attendance for those who use loans to finance college educations. One kind of cost is financing, which includes origination and insurance fees plus interest on the unpaid balance. Another kind of cost is risk, which is the special burden for low income students because they are often less prepared academically to succeed in college than their more affluent peers."

We recognize that the economic realities of the 1990's may prevent grants from again being the norm for the needy. However, as a nation we must realize that the resulting effect of having loans serve as the primary way in which students finance their education is the risk of default.

Student loan defaults did not just happen and they are as much the result of federal policy and reduced funding for grants as any other single factor associated with postsecondary institutions. The shift from grants to loans as the primary form of student financial assistance has resulted in a spiralling increase in Guaranteed Student Loan volume, both in numbers of loans and in dollars. Outstanding loan volume rose from 9.9 billion in 1976 to more than 80 billion in 1988. At the same time, it is important to keep in mind that the annual gross student loan default rate has remained almost constant: based on U.S. Department of Education data it was 5.0% in 1975 and was 5.8% in 1987. Yes, the cost of defaults is up, but it is the result of the sharp rise in loan volume and not due to any significant increase in the rate of defaults. The shifting balance from grants to loans has resulted in increased debt burdens on students who historically have been least able to repay.

We recommend a restoration of the balance between grants and loans. Needed grant dollars must be restored to low income students in order to increase access and success in postsecondary education and to decrease defaults.

II. Give Time for New Regulations to Work

DeVry believes that consistent guidelines should be established to assist all institutions in the sound administration of their educational and financial aid programs. Performance rather than sector should be the basis of any unique requirement. Not only is the promulgation of separate regulations for different postsecondary sectors unequal treatment, it would be redundant and costly, putting an additional burden of cost on America's taxpayers.

In the past year the Congress and U.S. Department of Education have begun significant initiatives to curb fraud and abuse. These consist of:

1. The June 5, 1989 Default Regulations.
2. The November 3, 1989 Regulations which require pre-certification training for all institutions wishing to participate in Title IV for the first time.
3. The Student Loan Reconciliation Act of 1989 enacted by Congress.

We applaud the efforts that Congress and the U.S. Department of Education have taken in regard to consumer protection and student loan default reduction. We believe that they have already reduced exploitation of students and have reduced the number of future defaults.

DeVry believes that preventive measures are more effective and less costly than punishment after the fact. However, we also believe that these regulatory and legislative efforts need time to make an impact before we take additional steps which may adversely affect student access and educational opportunity.

III. Strengthen the Management Eligibility and Control of the Rules Process

The recent Office of Inspector General report reviewing the Department of Education's processes identified a number of weaknesses. The report indicated that institutions have been determined eligible and have been certified when in fact they should not have passed through the process.

Our review of the procedures suggest that the rules and regulations seem to be in place. It appears that the correct set of data is available to ascertain an institution's effectiveness. Recent additions to Department staff have enhanced its ability to evaluate administrative and financial soundness. The missing link is a strengthening of the validation procedure to ensure accuracy of the data provided.

Currently, there are rules, regulations and procedures in effect that cover the eligibility and certification process. Institutions are required to file applications for both eligibility and certifications. The June 5, 1989 default regulations require a number of measures designed to prevent and reduce student loan defaults:

- Track disclosure forms for pass rates, completion rates, placement rates.
- Student loan entrance and exit counselling.
- Student loan program default rate cutoffs.
- Required default management plans for high default rate schools.

Additionally, institutions must currently submit an audit of their Title IV programs at least every two years. Program reviews are conducted by USED at participating institutions who meet pre-defined criteria designed to target possible problem schools. New institutions must attend the pre-certification training as was mentioned earlier. It seems to us that the information and staff are available to evaluate the legitimacy of eligibility and certification decisions, therefore, we offer the following recommendations:

- Detailed documentation should be required to support answers to the questions asked on applications for eligibility and certification. For example:
  - Institutions should be required to submit job descriptions for financial aid administrators to ensure that the job functions meet the administrative capability requirements.
  - Institutions opening branches should submit branch business plans. The plans should include a branch pro-forma P&L as well as the most recent annual financial report to document compliance with the financial stability requirements.
  - Institutions that use financial aid servicers or consultants should include a copy of the contract for services to evaluate the institutions ability to meet administrative capability regulations.
- On site program reviews should be conducted at the main campus and branch prior to an institution gaining eligibility and certification.
- On site reviews should be required upon changes in ownership, the addition of locations (branching), the request to participate in new Title IV programs, changing accrediting agencies, and moving into new states.
- In addition to the initial review, new institutions should be re-reviewed after a 12 month period to ensure continued compliance.

- Certification should include a review of the most recent audit and institutional and guarantee agency program review information, as well as the latest complete state application for licensure.

IV. Establish and Strengthen The Communication Links Between the U.S. Department of Education, State Licensing Agencies, and the Accrediting Agencies

Concerns relative to the educational quality, financial stability and compliance with rules can occur in any one of these three agencies. Therefore, it is vital that this information is shared. Currently, there appears to be reluctance to share this information based on a concern that the rights of the institution may be violated. We believe that it is possible to provide the agencies with the authority to exchange information during a process rather than after the fact. For example, a statement could be added to the Title IV Program Participation Agreement which would allow the Federal government to receive or solicit information from the state agency or accrediting agency. The same type of language could be put on state applications and accrediting agency applications so that the right to exchange information would be a condition of accreditation, licensing, eligibility and certification.

V. Hold All Members of the Student Loan Partnership Accountable for Student Loan Defaults

It would appear that the responsibility for student loan default has been disproportionately and perhaps inappropriately placed with institutions of higher education. We believe that all members of the student loan partnership - students, institutions, banks, guarantee agencies, the U.S. Department of Education - have a responsibility to ensure loan repayment. The focus on loan default prevention and the punishment for high default rates have been on institutions. In addition, however, we believe that lenders and guarantee agencies along with schools and students should be held accountable for defaults.

It appears that the quality of loan processing and servicing by lenders, and agencies has a significant impact on default rates. We believe that lender and secondary market default rates should be tracked as institutional default rates are tracked, with a requirement for default management plans for high default banks.

Additionally, the relationship of the use of secondary arkets to compliance with due diligence rules and lender default rates should be examined.

In essence there should be equal treatment for all participants in the student loan partnership.

VI. Fund the Student Loan Data Bank

The Higher Education Act of 1965 as amended in 1986 provided for the establishment of a national Student Loan Data Bank. To date it has not been funded. Currently, students are able to take out loans from more than one Guarantee Agency within a one year period. Institutions can direct the students to more than one agency. In order to reduce fraud and abuse, a single data bank should be established which is required to be used by all institutions, guarantee agencies, and lenders as the one source of information for student loan repayment and default activity. An additional and important advantage of such a data bank would be the ability to flag institutions with sudden large increases in loan activity for timely examinations and/or site visit.

VII. Provide the Institutional Financial Aid Administrator with the Ability to Set Loan Limits

Financial Aid administrators are in the best position to monitor and adjust borrowing levels for students. Because an institution's default rate is linked to its participation in federal programs, the Financial Aid Administrator should have the ability to limit loans. Today, having to certify a loan for a student when professional judgement would dictate otherwise undercuts the integrity of all need based financial aid programs.

SUMMARY

The postsecondary education community must restore public and congressional confidence in the Federal student financial aid programs. We must protect and preserve the integrity of the programs. We believe that the solution is within our reach. Equal and fair performance-based (not sector-based) criteria must be developed and used to determine which institutions should participate in Title IV programs and to determine the level of participation. The institutions that perform well should continue to participate fully in the programs. Institutions that are poor performers should be required to improve and adhere to more regulatory requirements. Abusers should have their eligibility suspended or terminated. It is important that any plan based on performance include the development of effective and equitable criteria and the ability of the Department of Education and others to manage and enforce the plan.

The problems of a few should not erase the continuous service and work of the many. As the staff subcommittee stated in its February 20, 1990 testimony: "It is important to note early on that while we are convinced that waste, fraud and abuse exist in the operation of these programs, we are NOT condemning every individual, agency, or educational institution associated with these programs. While abuse and fraud involving federal student aid programs has grown substantially, the majority of schools, students, lenders, and others involved in this process remain honest. Without the student aid program, it is undoubtedly true that many Americans would not have been able to better themselves through higher education."

We wholeheartedly concur and believe that the nation must continue helping students who need financial assistance to achieve their educational objectives while eliminating fraud and abuse in the federal student financial aid programs.

President Lyndon B. Johnson declared when submitting the Halmark Higher Education Act of 1965 legislation: "Every child must be encouraged to get as much education as he has the ability to take. We want this not only for his sake . . . but for the nations sake. Nothing matters more to the future of our country, not military preparedness, for armed might is worthless if we lack the brain power to build a world of peace: not our productive economy . . for we cannot sustain growth without trained manpower; not our democratic system of government . . for freedom is fragile if citizens are ignorant."

DeVry stands ready and willing to work with the Congress, the U.S. Department of Education and our colleagues in the postsecondary education community to reform and improve student loan policies and programs.

Thank you.

HEAF

Guaranteeing the Future

Suite 600
6800 College Boulevard
Overland Park, Kansas 66211
913-345-1300

Senate Permanent Subcommittee on Investigations

EXHIBIT # 34

September 20, 1990

The Honorable Sam Nunn
Chairman
Permanent Subcommittee on Investigations
United States Senate
100 Russell Senate Office Building
Washington, DC 20510-6250

Dear Senator Nunn:

You and members of your Committee no doubt discount the testimony of a convicted felon. Nonetheless, I want to correct for the record the erroneous impression which may have been created by the statement of Tommy Wayne Downs as presented to your Committee on September 13. Mr. Downs' statement seems to erroneously imply that the Higher Education Assistance Foundation is somehow to blame for the fraud that he perpetrated on HEAF and the Guaranteed Student Loan Program.

Mr. Downs has an obvious interest in attacking HEAF. The diligence of HEAF personnel in submitting evidence to the Inspector General and the F.B.I., and the testimony of a HEAF employee before the Grand Jury indicting Mr. Downs helped to put Mr. Downs in prison.

Mr. Downs and his accomplice, an employee of an employment agency who obtained a temporary assignment in the HEAF offices, could have gotten by with much more than the $450,000 indicated in his statement and might have evaded detection and conviction, had it not been for the diligent efforts of HEAF personnel.

If HEAF procedures were as lax as Mr. Downs has suggested, he would not be in prison today. Every student loan application submitted to HEAF for guarantee is subjected to more than 500 edit criteria. This makes fraud difficult, but obviously not impossible. As indicated by Mr. Downs' experience, HEAF procedures make detection of fraud with attendant prosecution and conviction quite likely.

Unfortunately, fraud cannot be detected before it is perpetrated. HEAF uses every reasonable policy and procedure short of those which would bring the program to a grinding halt to minimize the possibility of fraud and to detect unscrupulous individuals, like Mr. Downs, who perpetrate fraud.

Although any loss to fraud and abuse is too much, the $450,000 by which Mr. Downs benefited represents a small loss rate on a percentage basis. HEAF has guaranteed $15 billion in student loans, and as much as $3 billion in a

MEMBERS OF THE HEAF GROUP

HEAF MANAGEMENT CORPORATION
HIGHER EDUCATION ASSISTANCE FOUNDATION
HEAF SERVICE CORPORATION
HIGHER EDUCATION LOAN PROGRAM OF KANSAS, INC
HIGHER EDUCATION LOAN PROGRAM OF TENNESSEE
HIGHER EDUCATION LOAN PROGRAM OF WASHINGTON D.C. INC
HIGHER EDUCATION LOAN PROGRAM OF WEST VIRGINIA, INC

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single year; $450,000 is only three one-thousandths of one percent (.003%) and only fifteen one-thousandths percent (.015%) of $3 billion.

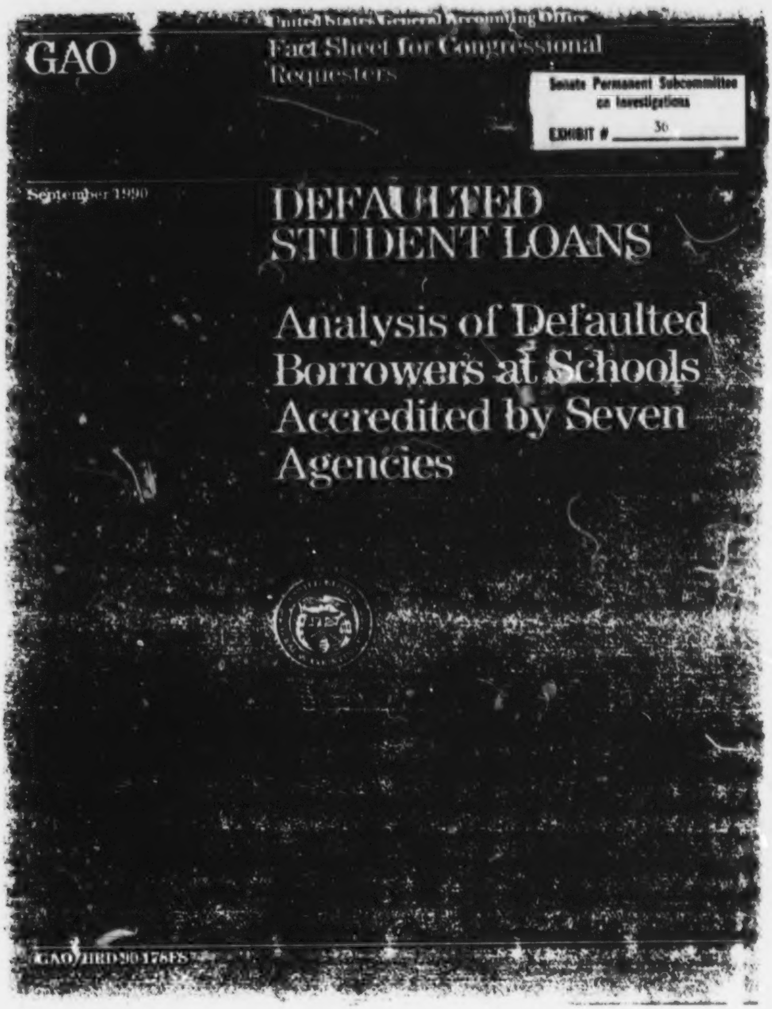
Mr. Downs' statements imply that efficient service and prompt turn-around time create opportunity for fraud. If HEAF were less efficient, backlogs could be permitted to occur and applications could be held for several days or even weeks before being processed. Students deserve better; they have every right to efficient service and rapid turn-around time. Inefficiency and poor service would not deter fraud. HEAF's aggressive policies and procedures designed to prevent and detect fraud have worked well, as indicated by the fact that Mr. Downs is in prison.

We are proud of the distinguished record of HEAF in deterring fraud and abuse, in acting against those who abuse student loans, and in recovering funds related to loan program abuse to the financial benefit of the government and the taxpayer. Our Compliance department is second to none in the student loan industry. Its positive results under difficult circumstances prevent unscrupulous individuals like Mr. Downs from doing more damage to a program which meets the needs of the United States effectively by making higher education accessible to the nation's youth.

Sincerely,

Richard C. Hawk
Chairman of the Board

RCH/se



United States General Accounting Office

GAO

Fact Sheet for Congressional Requesters

Senate Permanent Subcommittee on Investigations

EXHIBIT # 36

September 1990

DEFAULTED STUDENT LOANS

Analysis of Defaulted Borrowers at Schools Accredited by Seven Agencies

GAO/HRD-90-178FS

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GAO

United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

B-241087

September 12, 1990

The Honorable Edward M. Kennedy
Chairman, Committee on Labor
and Human Resources
United States Senate

The Honorable Sam Nunn
Chairman, Permanent Subcommittee
on Investigations
Committee on Governmental Affairs
United States Senate

This report responds to your request for information on the default rates in the Stafford Student Loan Program for schools accredited by seven agencies.[1] Specifically, your offices requested data on each accrediting agency concerning the number of schools it accredited, the percentage of borrowers in default, and the amount of loans in default. In addition, you wanted other information on each agency, such as the average default dollars per school and number of schools with a default volume of $1 million or more. These accrediting agencies are:

- Accrediting Bureau of Health Education Schools (ABHES),
- Accrediting Council for Continuing Education and Training (ACCET),
- Association of Independent Colleges and Schools (AICS),
- National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS),
- National Association of Trade and Technical Schools (NATTS),
- National Home Study Council (NHSC), and
- Southern Association of Colleges and Schools' Commission on Occupational Education Institutions (SACS/COEI).

On August 29 and September 6, 1990, we discussed the results of our analysis with your offices (see app. I). This fact sheet summarizes the information provided at those meetings.

Background

Schools generally undergo a three-tiered approval process before they can participate in federal postsecondary student financial assistance programs, such as the Stafford Student Loan Program. Schools must be (1) licensed by the state in which they operate, (2) accredited by an agency recognized by the Secretary of Education, and (3) certified for program eligibility by the Department of Education.

---

[1] This program includes Stafford loans, Supplemental Loans for Students, and Parent Loans for Undergraduate Students.

Accreditation is a system for reviewing educational institutions and their professional programs to ensure a consistent level of performance, integrity, and quality. This process is conducted primarily through non-governmental, voluntary associations. These groups establish their criteria for accreditation, evaluate institutions and professional programs desiring accredited status, and approve those that meet the criteria. As such, accreditation is a key link in ensuring that schools offer quality educational programs. This process hopefully increases the probability that students complete their studies, find gainful employment, and repay any student loans they may receive.

Scope and Methodology

As agreed with your offices, we obtained the requested information from the Department of Education's Institutional Data System. The system contains, among other things, information on the schools listed in the Department's fiscal year 1988 student loan default rate analysis, commonly referred to as the 1988 cohort. As one of its efforts to reduce loan default costs the Department initiated a process to track student default rates.[1]

The Department's 1988 analysis calculated default rates for all schools having at least 30 Stafford and/or Supplemental Loans for Students borrowers who entered repayment in fiscal year 1988 and subsequently defaulted by the end of fiscal year 1989.[2]

The Department provided us with a listing of the schools that were included in its 1988 analysis for each of the seven accrediting agencies. The information we received reflects the data contained in the system as of July 24, 1990. The Department told us, with the possibility of a few exceptions, that the schools listed are proprietary (for profit) or vocational institutions. Because some schools were accredited by more than one agency and by at least one of the seven agencies, we added an eighth category for such schools and analyzed these results separately.

We did not verify the information contained in the Department's Institutional Data System.

---

[1] Appendix II contains the Department's rationale for monitoring student default rates.

[2] Default rates can be calculated with a variety of assumptions. The Department's methodology for calculating the 1988 cohort is in appendix III.

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For each of the agencies, we analyzed the: number of schools accredited, dollars in default, average default dollars per school, number of borrowers in repayment, number of borrowers in default, number and percent of schools with certain default rate thresholds, and range of default dollars for its schools. Appendix I contains the results of this analysis for each agency. In addition, we analyzed the schools that had defaulted loans of $1 million or more. Appendix IV contains this analysis.

The Department published a list of student default rates at each school for the 1988 cohort. It excluded ineligible schools. As requested by your offices, our analysis includes all schools in the 1988 cohort analysis accredited by at least one of the seven agencies. This could include some schools that are no longer eligible for the loan programs.

Results Vary Among Accrediting Agencies

Table 1 shows the variance for each of the agencies in the (1) number of schools accredited, (2) number of borrowers in repayment, and (3) loan dollars in default. The number of schools accredited ranged from 16 (NHSC) to 781 (NACCAS). The number of borrowers in repayment ranged from 16,413 (ABHES) to 353,872 (AICS). In addition, the loan defaults per agency ranged from $12,905,374 (ABHES) to $230,870,073 (NATTS).

Table 1: Number of Schools and Borrowers, and Volume of Loan Defaults

Agency	Number of schools accredited	Borrowers in repayment	Loan defaults
ABHES	51	16,413	$12,905,374
ACCET	100	53,377	50,524,307
AICS	515	353,872	203,018,491
NACCAS	781	84,847	57,931,584
NATTS	592	353,588	230,870,073
NHSC	16	104,488	78,163,931
SACS/COEI	76	50,271	42,225,399
Multiple	101	62,833	36,916,918
Total	**2,232**	**1,079,689**	**$712,556,077**

Borrower Default Rates Vary

As with the other indicators discussed above, borrower default rates varied among agencies. Figure 1 shows that ACCET and NHSC had the highest rate with 38 percent, while schools with multiple accreditation had the lowest rate with 24 percent.

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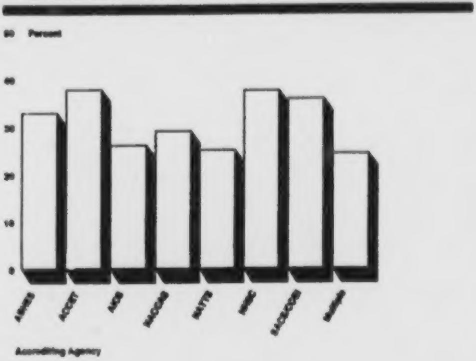
Figure 1: Default Rate for Each Accrediting Agency

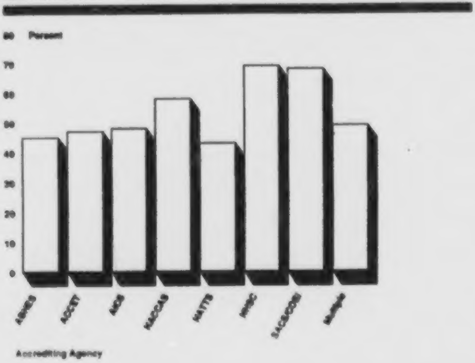


Many Schools Could Be Subject to Default Management Plans

One of the reasons the Department initiated its student default rate analysis was to identify postsecondary schools with student loan default problems. It targeted more stringent default reduction measures to schools with the highest default rates. In its June 5, 1989, regulations, the Department required that, starting on July 20, 1989, all schools with default rates over 20 percent implement a default management plan. These plans, to be approved by the Department, are directed toward reducing the particular causes of loan default at the school.

Based on the Department's data, many of the schools accredited by the agencies we analyzed, if still eligible, will be required to prepare default management plans. Figure 2 shows that the percentage of schools for each agency subject to such plans ranged from 43 percent (NATTS) to 69 percent (NHSC).

Figure 2: Schools Subject to Default Management Plans



As agreed with your offices, we did not obtain written comments on this fact sheet. We did, however, discuss its contents with Department of Education program officials and incorporated their comments where appropriate.

We are sending copies of this fact sheet to other congressional committees, the Department of Education, and other interested parties. Should you wish to discuss its contents, please call me on (202) 275-1793. Other major contributors to this fact sheet are listed in appendix V.

Franklin Frazier

Franklin Frazier
Director, Education
and Employment Issues

Contents

Letter 1

Appendix I Selected Indicators Using 1988 Cohort Data 8

Appendix II Department of Education Letter to Schools Concerning Default Reduction Initiatives 12

Appendix III Department of Education Methodology for Calculating Cohort Default Rates for 1988 15

Appendix IV Analysis of Schools With $1 Million or More of Student Loans in Default 16

Appendix V Major Contributors to This Fact Sheet 17

Related GAO Products 18

Tables

Table 1: Number of Schools and Borrowers, and Volume of Loan Defaults 3
Table I.1: Indicators for Accrediting Bureau of Health Education Schools (ABHES) 8
Table I.2: Indicators for Accrediting Council for Continuing Education and Training (ACCET) 8
Table I.3: Indicators for Association of Independent Colleges and Schools (AICS) 9
Table I.4: Indicators for National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS) 9
Table I.5: Indicators for National Association of Trade and Technical Schools (NATTS) 10
Table I.6: Indicators for National Home Study Council (NHSC) 10
Table I.7: Indicators for Southern Association of Colleges and Schools' Commission on Occupational Education Institutions (SACS/COEI) 11
Table I.8: Indicators for Schools With Multiple Accreditation 11
IV.1: A Few Schools Had Most of the Loan Defaults of $1 Million or More 16

Figures

Figure 1: Default Rate for Each Accrediting Agency 4
Figure 2: Schools Subject to Default Management Plans 5

Abbreviations

ABHES	Accrediting Bureau of Health Education Schools
ACCET	Accrediting Council for Continuing Education and Training
AICS	Association of Independent Colleges and Schools
NACCAS	National Accrediting Commission of Cosmetology Arts and Sciences
NATTS	National Association of Trade and Technical Schools
NHSC	National Home Study Council
SACS/COEI	Southern Association of Colleges and Schools' Commission on Occupational Education Institutions

Selected Indicators Using 1988 Cohort Data

Table I.1: Indicators for Accrediting Bureau of Health Education Schools (ABHES)

Indicator	**Result**
Number of schools accredited	51
Total dollars in default for all ABHES schools	$12,905,374
Average default volume per school	$253,047
Number of borrowers in repayment	16,413
Number of borrowers in default	5,398
Percent of borrowers in default	32.89%
Number and percent of schools with default rates above	
20%	23 (45%)
30%	16 (31%)
40%	8 (16%)
60%	1 (2%)
Range of default volume for ABHES schools	
Highest volume	$5,308,551
Lowest volume	$5,520

Table I.2: Indicators for Accrediting Council for Continuing Education and Training (ACCET)

Indicator	**Result**
Number of schools accredited	100
Total dollars in default for all ACCET schools	$50,524,307
Average default volume per school	$505,243
Number of borrowers in repayment	53,377
Number of borrowers in default	20,207
Percent of borrowers in default	37.86%
Number and percent of schools with default rates above	
20%	47 (47%)
30%	34 (34%)
40%	18 (18%)
60%	6 (6%)
Range of default volume for ACCET schools	
Highest volume	$8,282,384
Lowest volume	$0

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Table I.3: Indicators for Association of Independent Colleges and Schools (AICS)

Indicator	Result
Number of schools accredited	515
Total dollars in default for all AICS schools	$203,018,491
Average default volume per school	$394,211
Number of borrowers in repayment	353,872
Number of borrowers in default	92,360
Percent of borrowers in default	26.10%
Number and percent of schools with default rates above	
20%	248 (48%)
30%	130 (25%)
40%	66 (13%)
60%	9 (2%)
Range of default volume for AICS schools	
Highest volume	$7,604,673
Lowest volume	$0

Table I.4: Indicators for National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS)

Indicator	Result
Number of schools accredited	781
Total dollars in default for all NACCAS schools	$57,931,584
Average default volume per school	$74,176
Number of borrowers in repayment	84,847
Number of borrowers in default	24,676
Percent of borrowers in default	29.08%
Number and percent of schools with default rates above	
20%	450 (58%)
30%	267 (34%)
40%	146 (19%)
60%	20 (3%)
Range of default volume for NACCAS schools	
Highest volume	$4,822,113
Lowest volume	$0

Table I.5: Indicators for National Association of Trade and Technical Schools (NATTS)

Indicator	Result
Number of schools accredited	592
Total dollars in default for all NATTS schools	$230,870,073
Average default volume per school	$389,983
Number of borrowers in repayment	353,588
Number of borrowers in default	88,672
Percent of borrowers in default	25.08%
Number and percent of schools with default rates above	
20%	254 (43%)
30%	118 (20%)
40%	46 (8%)
60%	4 (1%)
Range of default volume for NATTS schools	
Highest volume	$7,815,680
Lowest volume	$0

Table I.6: Indicators for National Home Study Council (NHSC)

Indicator	Result
Number of schools accredited	16
Total dollars in default for for all NHSC schools	$78,163,931
Average default volume per school	$4,885,245
Number of borrowers in repayment	104,488
Number of borrowers in default	39,275
Percent of borrowers in default	37.59%
Number and percent of schools with default rates above	
20%	11 (69%)
30%	7 (44%)
40%	2 (13%)
60%	0 (0%)
Range of default volume for NHSC schools	
Highest volume	$27,044,040
Lowest volume	$25,042

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Table I.7: Indicators for Southern Association of Colleges and Schools' Commission on Occupational Education Institutions (SACS/COEI)

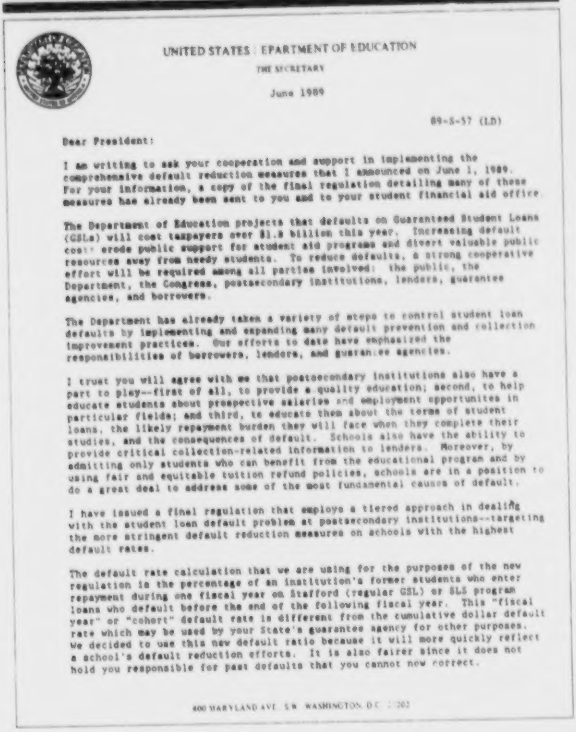
Indicator	Result
Number of schools accredited	76
Total dollars in default for all SACS/COEI schools	$42,225,399
Average default volume per school	$555,597
Number of borrowers in repayment	50,271
Number of borrowers in default	18,007
Percent of borrowers in default	35.82%
Number and percent of schools with default rates above	
20%	52 (68%)
30%	35 (46%)
40%	20 (26%)
60%	5 (7%)
Range of default volume for SACS/COEI schools	
Highest volume	$5,107,718
Lowest volume	$0

Table I.8: Indicators for Schools With Multiple Accreditation

Indicator	Result
Number of schools accredited	101
Total dollars in default for all multiply accredited schools	$36,916,918
Average default volume per school	$365,514
Number of borrowers in repayment	62,833
Number of borrowers in default	15,267
Percent of borrowers in default	24.30%
Number and percent of schools with default rates above	
20%	49 (49%)
30%	24 (24%)
40%	10 (10%)
60%	1 (1%)
Range of default volume for multiply accredited schools	
Highest volume	$4,621,333
Lowest volume	$0

Appendix II

Department of Education Letter to Schools Concerning Default Reduction Initiatives



UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

June 1989

89-S-57 (LD)

Dear President:

I am writing to ask your cooperation and support in implementing the comprehensive default reduction measures that I announced on June 1, 1989. For your information, a copy of the final regulation detailing many of these measures has already been sent to you and to your student financial aid office.

The Department of Education projects that defaults on Guaranteed Student Loans (GSLs) will cost taxpayers over $1.8 billion this year. Increasing default costs erode public support for student aid programs and divert valuable public resources away from needy students. To reduce defaults, a strong cooperative effort will be required among all parties involved: the public, the Department, the Congress, postsecondary institutions, lenders, guarantee agencies, and borrowers.

The Department has already taken a variety of steps to control student loan defaults by implementing and expanding many default prevention and collection improvement practices. Our efforts to date have emphasized the responsibilities of borrowers, lenders, and guarantee agencies.

I trust you will agree with me that postsecondary institutions also have a part to play--first of all, to provide a quality education; second, to help educate students about prospective salaries and employment opportunites in particular fields; and third, to educate them about the terms of student loans, the likely repayment burden they will face when they complete their studies, and the consequences of default. Schools also have the ability to provide critical collection-related information to lenders. Moreover, by admitting only students who can benefit from the educational program and by using fair and equitable tuition refund policies, schools are in a position to do a great deal to address some of the most fundamental causes of default.

I have issued a final regulation that employs a tiered approach in dealing with the student loan default problem at postsecondary institutions--targeting the more stringent default reduction measures on schools with the highest default rates.

The default rate calculation that we are using for the purposes of the new regulation is the percentage of an institution's former students who enter repayment during one fiscal year on Stafford (regular GSL) or SLS program loans who default before the end of the following fiscal year. This "fiscal year" or "cohort" default rate is different from the cumulative dollar default rate which may be used by your State's guarantee agency for other purposes. We decided to use this new default ratio because it will more quickly reflect a school's default reduction efforts. It is also fairer since it does not hold you responsible for past defaults that you cannot now correct.

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202

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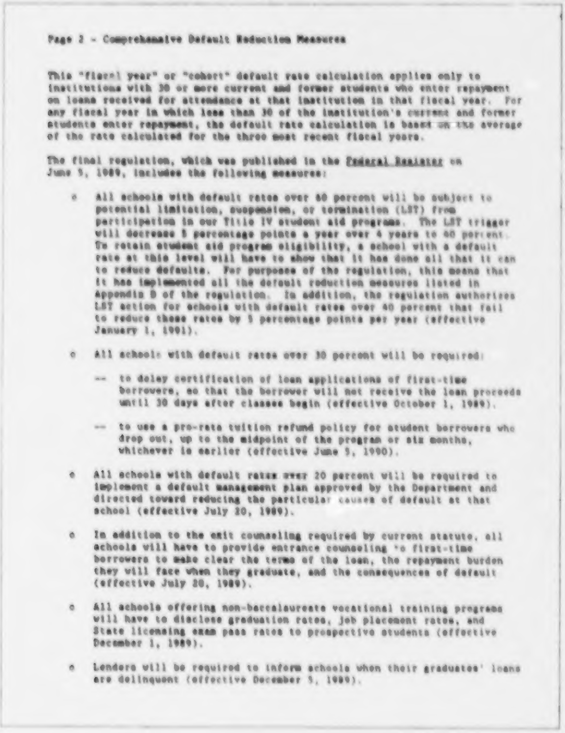
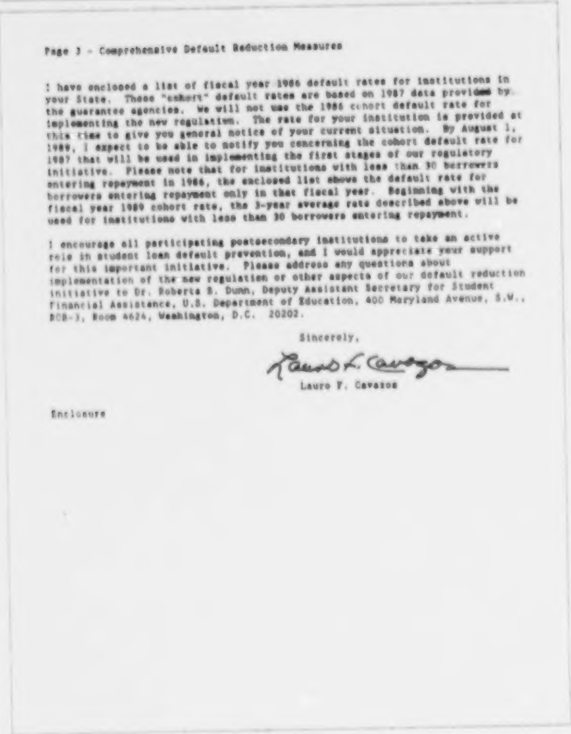


Page 2 - Comprehensive Default Reduction Measures

This "fiscal year" or "cohort" default rate calculation applies only to institutions with 30 or more current and former students who enter repayment on loans received for attendance at that institution in that fiscal year. For any fiscal year in which less than 30 of the institution's current and former students enter repayment, the default rate calculation is based on the average of the rate calculated for the three most recent fiscal years.

The final regulation, which was published in the Federal Register on June 5, 1989, includes the following measures:

- All schools with default rates over 60 percent will be subject to potential limitation, suspension, or termination (LST) from participation in our Title IV student aid programs. The LST trigger will decrease 5 percentage points a year over 4 years to 40 percent. To retain student aid program eligibility, a school with a default rate at this level will have to show that it has done all that it can to reduce defaults. For purposes of the regulation, this means that it has implemented all the default reduction measures listed in Appendix D of the regulation. In addition, the regulation authorizes LST action for schools with default rates over 40 percent that fail to reduce those rates by 5 percentage points per year (effective January 1, 1991).
- All schools with default rates over 30 percent will be required:
  - to delay certification of loan applications of first-time borrowers, so that the borrower will not receive the loan proceeds until 30 days after classes begin (effective October 1, 1989).
  - to use a pro-rata tuition refund policy for student borrowers who drop out, up to the midpoint of the program or six months, whichever is earlier (effective June 5, 1990).
- All schools with default rates over 20 percent will be required to implement a default management plan approved by the Department and directed toward reducing the particular causes of default at that school (effective July 20, 1989).
- In addition to the exit counseling required by current statute, all schools will have to provide entrance counseling to first-time borrowers to make clear the terms of the loan, the repayment burden they will face when they graduate, and the consequences of default (effective July 20, 1989).
- All schools offering non-baccalaureate vocational training programs will have to disclose graduation rates, job placement rates, and State licensing exam pass rates to prospective students (effective December 1, 1989).
- Lenders will be required to inform schools when their graduates' loans are delinquent (effective December 5, 1989).



Page 3 - Comprehensive Default Reduction Measures

I have enclosed a list of fiscal year 1986 default rates for institutions in your State. These "cohort" default rates are based on 1987 data provided by the guarantee agencies. We will not use the 1986 cohort default rate for implementing the new regulation. The rate for your institution is provided at this time to give you general notice of your current situation. By August 1, 1989, I expect to be able to notify you concerning the cohort default rate for 1987 that will be used in implementing the first stages of our regulatory initiative. Please note that for institutions with less than 30 borrowers entering repayment in 1986, the enclosed list shows the default rate for borrowers entering repayment only in that fiscal year. Beginning with the fiscal year 1989 cohort rate, the 3-year average rate described above will be used for institutions with less than 30 borrowers entering repayment.

I encourage all participating postsecondary institutions to take an active role in student loan default prevention, and I would appreciate your support for this important initiative. Please address any questions about implementation of the new regulation or other aspects of our default reduction initiative to Dr. Roberta B. Dunn, Deputy Assistant Secretary for Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, S.W., ROB-3, Room 4624, Washington, D.C. 20202.

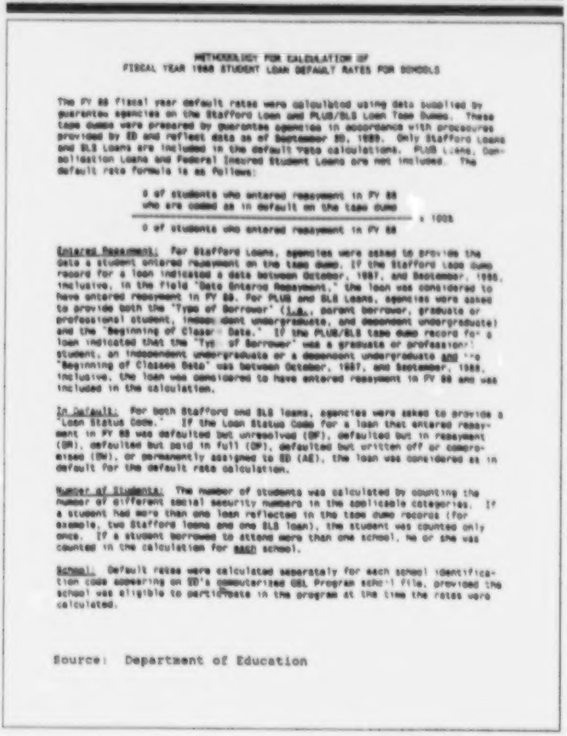
Sincerely,

Lauro F. Cavazos
Lauro F. Cavazos

Enclosure

Appendix III

Department of Education Methodology for Calculating Cohort Default Rates for 1988



METHODOLOGY FOR CALCULATION OF
FISCAL YEAR 1988 STUDENT LOAN DEFAULT RATES FOR SCHOOLS

The FY 88 fiscal year default rates were calculated using data supplied by guarantee agencies on the Stafford Loan and PLUS/SLS Loan Tape Dumps. These tape dumps were prepared by guarantee agencies in accordance with procedures provided by ED and reflect data as of September 30, 1989. Only Stafford Loans and SLS Loans are included in the default rate calculations. PLUS Loans, Consolidation Loans and Federal Insured Student Loans are not included. The default rate formula is as follows:

$$\frac{\text{\# of students who entered repayment in FY 88 who are coded as in default on the tape dump}}{\text{\# of students who entered repayment in FY 88}} \times 100\%$$

Entered Repayment: For Stafford Loans, agencies were asked to provide the date a student entered repayment on the tape dump. If the Stafford Loan Dump record for a loan indicated a date between October, 1987, and September, 1988, inclusive, in the field "Date Entered Repayment," the loan was considered to have entered repayment in FY 88. For PLUS and SLS Loans, agencies were asked to provide both the "Type of Borrower" (i.e., parent borrower, graduate or professional student, independent undergraduate, and dependent undergraduate) and the "Beginning of Classes Date." If the PLUS/SLS tape dump record for a loan indicated that the "Type of Borrower" was a graduate or professional student, an independent undergraduate or a dependent undergraduate and the "Beginning of Classes Date" was between October, 1987, and September, 1988, inclusive, the loan was considered to have entered repayment in FY 88 and was included in the calculation.

In Default: For both Stafford and SLS loans, agencies were asked to provide a "Loan Status Code." If the Loan Status Code for a loan that entered repayment in FY 88 was defaulted but unresolved (DF), defaulted but in repayment (DR), defaulted but paid in full (DP), defaulted but written off or compromised (DW), or permanently assigned to ED (AE), the loan was considered as in default for the default rate calculation.

Number of Students: The number of students was calculated by counting the number of different social security numbers in the applicable categories. If a student had more than one loan reflected in the tape dump records (for example, two Stafford loans and one SLS loan), the student was counted only once. If a student borrowed to attend more than one school, he or she was counted in the calculation for each school.

School: Default rates were calculated separately for each school identification code appearing on ED's computerized GSL Program school file, provided the school was eligible to participate in the program at the time the rates were calculated.

Source: Department of Education

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Appendix IV

Analysis of Schools With $1 Million or More of Student Loans in Default

IV.1: A Few Schools Had Most of the Loan Defaults of $1 Million or More

Numbers are percentages

Agency	Percent of schools	Percent of default dollars
ABHES	2	41
ACCET	14	74
AICS	9	54
NACCAS	1	20
NATTS	7	56
NHSC	50	98
SACS/COEI	1	67
Multiple	[illegible]	37

Major Contributors to This Report

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Related GAO Products

Supplemental Student Loans: Legislative Changes Have Sharply Reduced Loan Volume (GAO/HRD-90-149FS, Aug. 3, 1990)

Financial Problems in the Stafford Student Loan Program (GAO/T-HRD-90-52, July 27, 1990)

Supplemental Student Loans: Who Are the Largest Lenders? (GAO/HRD-90-72FS, Feb. 21, 1990)

GAO Views on the Stafford Student Loan Program (GAO/T-HRD-90-13, Feb. 20, 1990)

Supplemental Student Loans: Who Borrows and Who Defaults (GAO/HRD-90-33FS, Oct. 17, 1989)

Guaranteed Student Loans: Analysis of Student Default Rates at 7,800 Postsecondary Schools (GAO/HRD-89-63BR, July 5, 1989)

Defaulted Student Loans: Preliminary Analysis of Student Loan Borrowers and Defaulters (GAO/HRD-88-112BR, June 14, 1988)

GAO's Views on the Default Task Force's Recommendations for Reducing Default Costs in the Guaranteed Student Loan Program (GAO/T-HRD-88-7, Feb. 2, 1988)

Guaranteed Student Loans: Potential Default and Cost Reduction Options (GAO/HRD-88-52BR, Jan. 7, 1988)

Guaranteed Student Loans: Legislative and Regulatory Changes Needed to Reduce Default Costs (GAO/HRD-87-76, Sept. 30, 1987)

Defaulted Student Loans: Private Lender Collection Efforts Often Inadequate (GAO/HRD-87-48, Aug. 20, 1987)

Defaulted Student Loans: Guaranty Agencies' Collection Practices and Procedures (GAO/HRD-86-114BR, July 17, 1986)

United States General Accounting Office

GAO

Briefing Report to the Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 37

September 1990

SCHOOL ACCREDITATION

Activities of Seven Agencies That Accredit Proprietary Schools

GAO/HRD-90-179BR

GAO

United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

B-241086

September 12, 1990

The Honorable Sam Nunn
Chairman, Permanent Subcommittee
  on Investigations
Committee on Governmental Affairs
United States Senate

This report responds to your request for information on the activities of agencies that accredit for-profit or proprietary schools that may participate in the Stafford Student Loan Program.[1] Specifically, we agreed to provide statistical data on the accreditation actions taken during fiscal years 1985 to 1989 by seven accrediting agencies. The agencies are:

- Accrediting Bureau of Health Education Schools (ABHES),
- Accrediting Council for Continuing Education and Training (ACCET),
- Association of Independent Colleges and Schools (AICS),
- National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS),
- National Association of Trade and Technical Schools (NATTS),
- National Home Study Council (NHSC), and
- Southern Association of Colleges and Schools' Commission on Occupational Education Institutions (SACS/COEI).

These agencies reported that they currently accredit over 5,500 proprietary schools in the U.S. and abroad.[2]

On September 6, 1990, we briefed your offices on the preliminary results of our analysis. This report summarizes the information we provided. The results of our analysis are provided in appendix I.

Background

Accrediting agencies are an integral part of a three-step approval process that postsecondary institutions must undergo before their students can receive federal grants and loans. The Higher Education Act requires that each postsecondary institution with students participating in the Stafford Loan Program be

---

[1] This program includes Stafford loans, Supplemental Loans for Students, and Parent Loans for Undergraduate Students.

[2] Includes vocational schools and branch campuses. A branch is a separate instructional facility that is administered from the main campus and that offers complete educational programs. Branch school programs are sometimes unrelated to those offered by the main campus.

- licensed to provide postsecondary education by the state in which it is located,
- accredited by an agency recognized by the Secretary of Education, and
- certified by the Department of Education as financially sound and capable of providing postsecondary programs.

Accreditation is a system for recognizing educational institutions and professional programs that meet a specific level of performance, integrity, and quality. This process is conducted primarily through nongovernmental, voluntary associations called accrediting agencies. These agencies establish criteria for accreditation, evaluate institutions and professional programs desiring accredited status, and approve those that meet the agencies' criteria.

Scope and Methodology

As agreed with your office, we reviewed information subpoenaed by the Senate Permanent Subcommittee on Investigations from the seven accrediting agencies. For each agency, we determined as of May 1990 the number of proprietary schools currently accredited and of those, the number also accredited by one or more agencies. Also as of May 1990, we determined the number of schools that the agencies told us had voluntarily withdrawn their applications for accreditation but were accredited by another agency.

In addition, we determined for the 5-year period ending in 1989, the number of schools (1) newly accredited, reaccredited, or terminated; (2) whose first requests for accreditation were accepted, deferred, or denied; (3) that did not reapply for accreditation once their accreditation period expired; and (4) accredited without an on-site visit by the agency.[2]

We summarized the results of our review by accrediting agency and asked each agency to verify the information.

What We Found

Based on initial applications for accreditation, the seven agencies accredited 1,880 schools and denied 281 accreditation during the 5-year period. Six of the seven agencies deferred 437 schools for consideration; these schools subsequently may have been accredited or rejected after being reviewed again by the agencies. (See table 1.)

---

[2] ACCET, NACCAS, NATTS, and SACS-COEI provided some of this information for calendar years as opposed to fiscal years.

Table 1: Proprietary Schools That Applied for Accreditation (1985-89)

Agency	Schools initially Accredited	Schools initially Deferred	Schools initially Denied
ABHES	100	12	1
ACCET	252	63	28
AICS	149	*	120
NACCAS	619	112	46
NATTS	641	157	70
NHSC	25	11	10
SACS/COEI	94	82	6
Total	**1,880**	**437**	**281**

As shown in table 2, NACCAS and NATTS reaccredited the largest number of schools. The seven agencies terminated the accreditation of 315 proprietary schools during this 5-year period. Schools accredited by NACCAS accounted for over 30 percent of this total. Over 200 schools accredited by NACCAS and NATTS did not reapply for accreditation once it expired.

Table 2: Selected Agency Actions (1985-89)

Agency	Number of schools Reaccredited	Number of schools Terminated
ABHES	82	18
ACCET	141	46
AICS	413	55
NACCAS	1,069	99
NATTS	482	69
NHSC	26	9
SACS/COEI	117	19
Total	**2,330**	**315**

ACCET stated that before May 1990 its accreditation of main campuses—which are all subject to on-site agency visits—also covered branch campuses. Therefore, during the 5-year period, 65 branch campuses were accredited without site visits. As of May 1990, ACCET began conducting site visits to branch campuses as a condition of accreditation. ABHES, NHSC, and SACS/COEI reported that none of their schools were accredited without a site visit. AICS, NACCAS, and NATTS cited their policies requiring on-site visits to schools but did not provide information on the number of schools accredited without a visit. Appendix I contains additional statistics on each agency, including the number of schools that voluntarily withdrew their applications for accreditation and were accredited by another agency, and the number of schools that did not reapply for accreditation once it expired.

We discussed the contents of the report with representatives of the accrediting agencies and incorporated their comments where appropriate.

We are sending copies of this briefing report to the Secretary of Education, appropriate congressional committees, and other interested parties. Please call me on (202) 275-1793 if you or your staff have any questions about this report. Other major contributors to this report are listed in appendix II.

Sincerely yours,

Franklin Frazier

Franklin Frazier
Director, Education and
Employment Issues

Contents

Letter 1

Appendix I School Accreditation: Information on Seven Agencies That Accredit Proprietary Schools 8

Appendix II Major Contributors to This Briefing Report 35

Related GAO Products 36

Tables

Table 1: Proprietary Schools That Applied for Accreditation (1985-89) 3
Table 2: Selected Agency Actions (1985-89) 3

Figures

Figure I.1: School Accreditation 8
Figure I.2: Background 9
Figure I.3: Objectives 10
Figure I.4: Scope 11
Figure I.5: Methodology 12
Figure I.6: What Did We Find? 13
Figure I.7: Summary Observations on ABHES 14
Figure I.8: Summary Observations on ACCET 17
Figure I.9: Summary Observations on AICS 20
Figure I.10: Summary Observations on NACCAS 23
Figure I.11: Summary Observations on NATTS 26
Figure I.12: Summary Observations on NHSC 29
Figure I.13: Summary Observations on SACS 32

Abbreviations

ABHES	Accrediting Bureau of Health Education Schools
ACCET	Accrediting Council for Continuing Education and Training
AICS	Association of Independent Colleges and Schools
NACCAS	National Accrediting Commission of Cosmetology Arts and Sciences
NATTS	National Association of Trade and Technical Schools
NHSC	National Home Study Council
SACS/COEI	Southern Association of Colleges and Schools' Commission on Occupational Educational Institutions

Appendix I

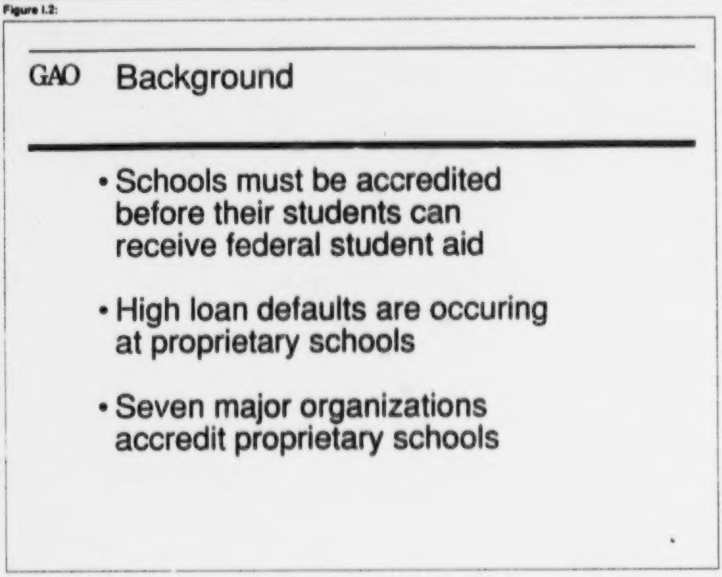
School Accreditation: Information on Seven Agencies That Accredit Proprietary Schools

Figure I.1:

GAO School Accreditation

Information on Seven Agencies That Accredit Proprietary Schools

Figure I.2:



GAO Background

- Schools must be accredited before their students can receive federal student aid
- High loan defaults are occuring at proprietary schools
- Seven major organizations accredit proprietary schools

Figure I.3:

GAO **Objectives**

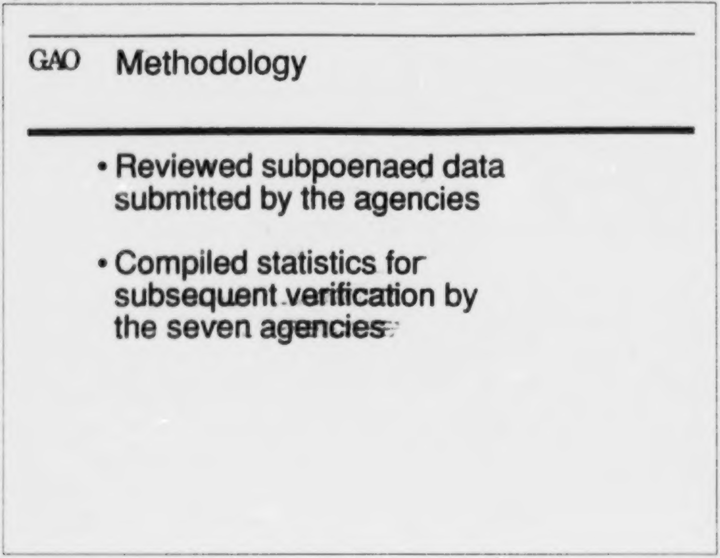
The Senate Permanent Subcommittee on Investigations asked GAO to compile statistics from documents subpoenaed from the seven accrediting agencies.

Figure I.4

GAO Scope

- Determined for each agency such items as the number of schools
  - currently accredited
  - newly accredited
  - reaccredited
  - initially denied accreditation
  - terminated

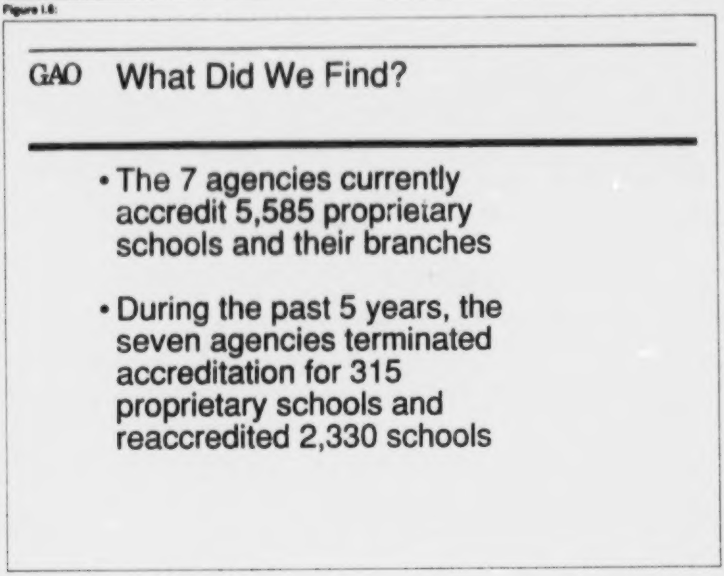
Figure I.5:



GAO **Methodology**

- Reviewed subpoenaed data submitted by the agencies
- Compiled statistics for subsequent verification by the seven agencies

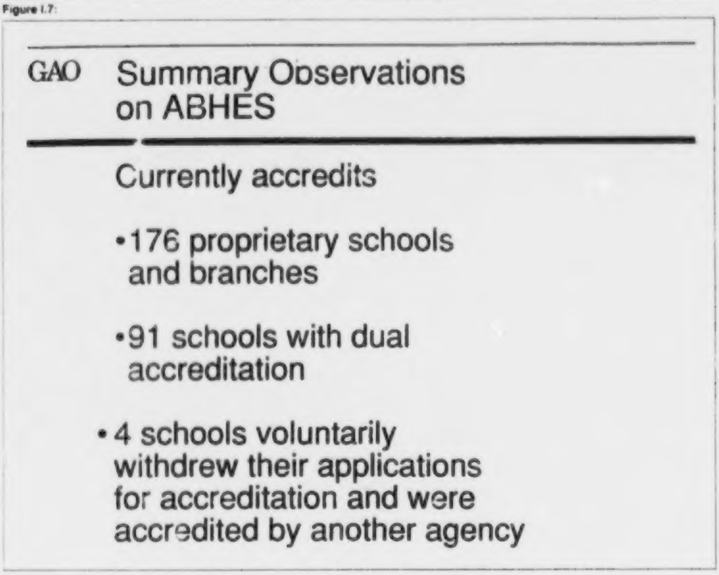
Figure I.6:



GAO What Did We Find?

- The 7 agencies currently accredit 5,585 proprietary schools and their branches
- During the past 5 years, the seven agencies terminated accreditation for 315 proprietary schools and reaccredited 2,330 schools

Figure I.7:



GAO Summary Observations on ABHES

Currently accredits

- 176 proprietary schools and branches
- 91 schools with dual accreditation
- 4 schools voluntarily withdrew their applications for accreditation and were accredited by another agency

Figure I.7 Continued:

GAO

Summary Observations on ABHES (continued)

In the past 5 years ABHES

- newly accredited 102 schools
- reaccredited 82 schools
- terminated its accreditation for 18 schools
- initially accredited 100 schools, deferred 12, and denied 1 accreditation

Figure I.7 Continued:

GAO

Summary Observations on ABHES (continued)

In the past 5 years

- 10 schools did not reapply for accreditation once it expired
- no schools were accredited without a school site visit by the agency

Figure I.8:

GAO

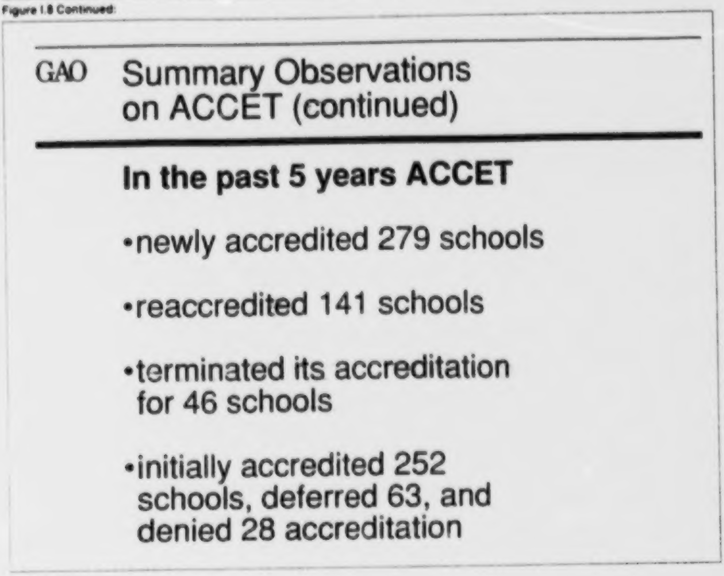
Summary Observations on ACCET

Currently accredits

- 935 proprietary schools and branches
- 10 schools with dual accreditation

- No data were available on schools that voluntarily withdrew their applications for accreditation

Figure I.8 Continued:



GAO Summary Observations on ACCET (continued)

In the past 5 years ACCET

- newly accredited 279 schools
- reaccredited 141 schools
- terminated its accreditation for 46 schools
- initially accredited 252 schools, deferred 63, and denied 28 accreditation

Figure I.8 Continued:

GAO

Summary Observations on ACCET (continued)

In the past 5 years

- 9 schools did not reapply for accreditation once it expired
- 65 branch campuses were accredited without a school site visit by the agency

Figure I.9:

GAO

Summary Observations on AICS

Currently accredits

- 930 proprietary schools and branches
- no data were available on the number of schools with dual accreditation
- 25 schools voluntarily withdrew their applications for accreditation

Figure I.9 Continued:

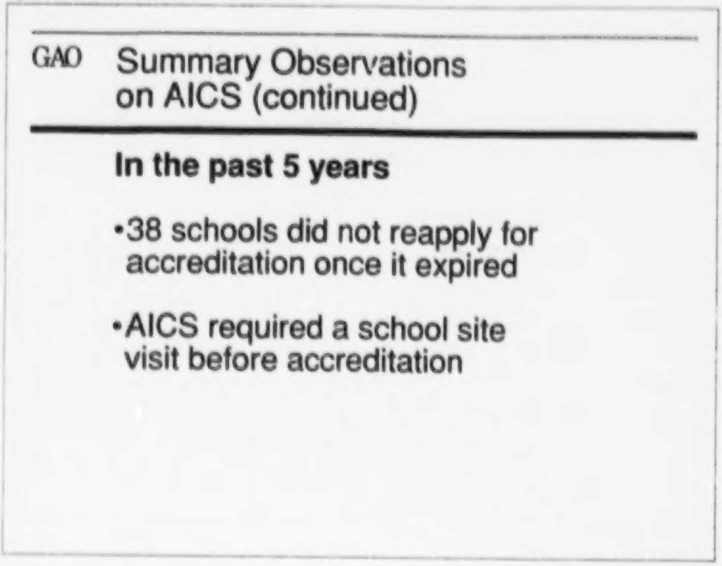
GAO

Summary Observations on AICS (continued)

In the past 5 years AICS

- newly accredited 57 schools
- reaccredited 413 schools
- terminated its accreditation for 55 schools
- initially accredited 149 schools and denied 120 accreditation

Figure I.9 Continued:

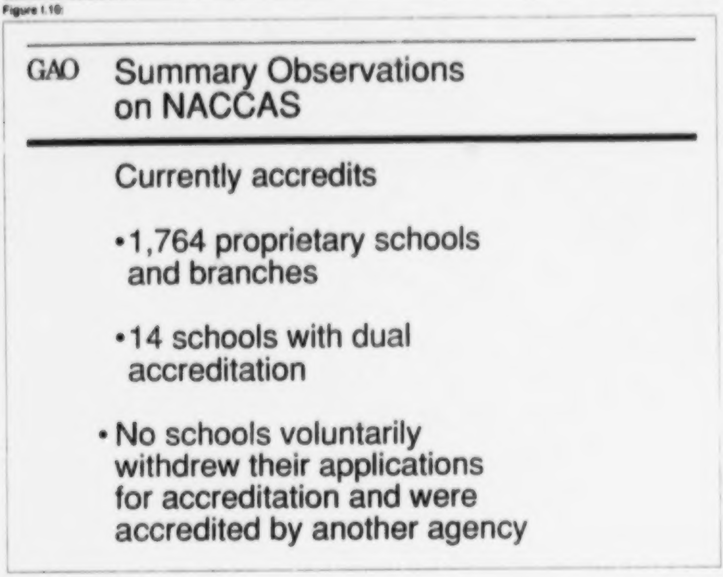


GAO Summary Observations on AICS (continued)

In the past 5 years

- 38 schools did not reapply for accreditation once it expired
- AICS required a school site visit before accreditation

Figure I.10:



GAO

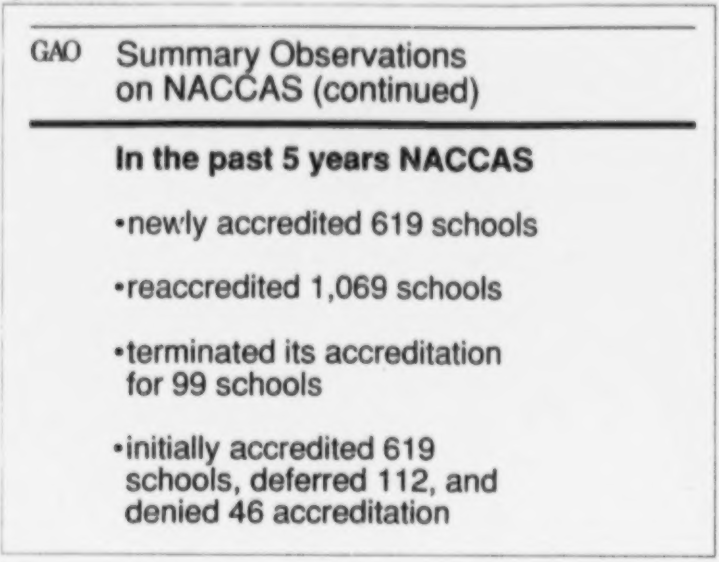
Summary Observations on NACCAS

Currently accredits

- 1,764 proprietary schools and branches
- 14 schools with dual accreditation

- No schools voluntarily withdrew their applications for accreditation and were accredited by another agency

Figure I.10 Continued:



GAO **Summary Observations on NACCAS (continued)**

In the past 5 years NACCAS

- newly accredited 619 schools
- reaccredited 1,069 schools
- terminated its accreditation for 99 schools
- initially accredited 619 schools, deferred 112, and denied 46 accreditation

Figure I.10 Continued:

GAO Summary Observations on NACCAS (continued)

In the past 5 years

- 118 schools did not reapply for accreditation once it expired
- NACCAS required a school site visit before accreditation

Figure I.11:

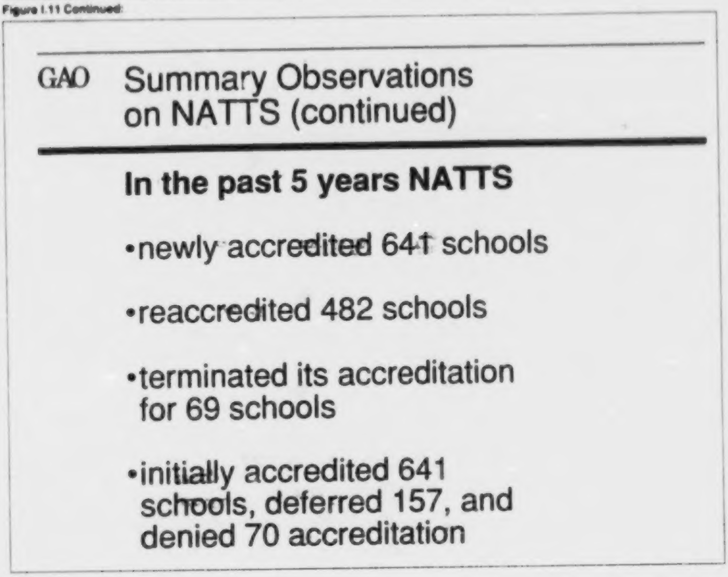
GAO

Summary Observations on NATTS

Currently accredits

- 1,297 proprietary schools and branches
- 150 schools with dual accreditation
- 27 schools voluntarily withdrew their applications for accreditation and were accredited by another agency

Figure I.11 Continued:

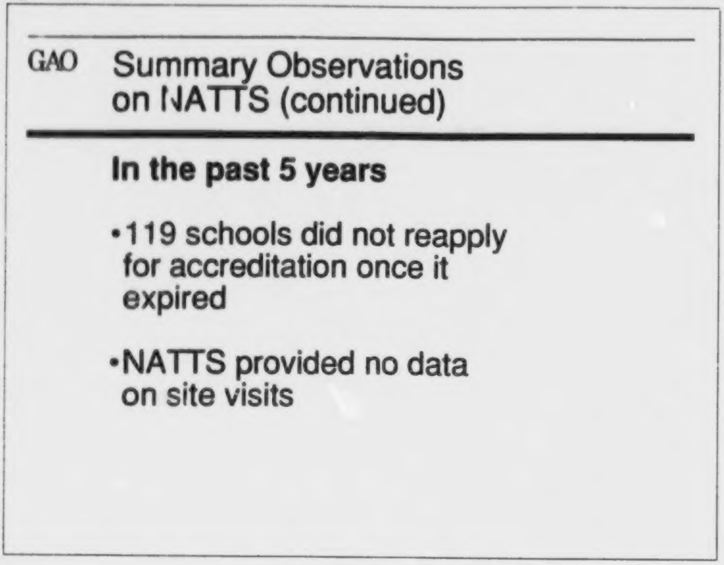


GAO Summary Observations on NATTS (continued)

In the past 5 years NATTS

- newly accredited 641 schools
- reaccredited 482 schools
- terminated its accreditation for 69 schools
- initially accredited 641 schools, deferred 157, and denied 70 accreditation

Figure I.11 Continued:



GAO

Summary Observations on NATTS (continued)

In the past 5 years

- 119 schools did not reapply for accreditation once it expired
- NATTS provided no data on site visits

Figure I.12:

GAO

Summary Observations on NHSC

Currently accredits

- 44 proprietary schools and branches
- no schools with dual accreditation

- No schools voluntarily withdrew their applications for accreditation and were accredited by another agency

Figure I.12 Continued:

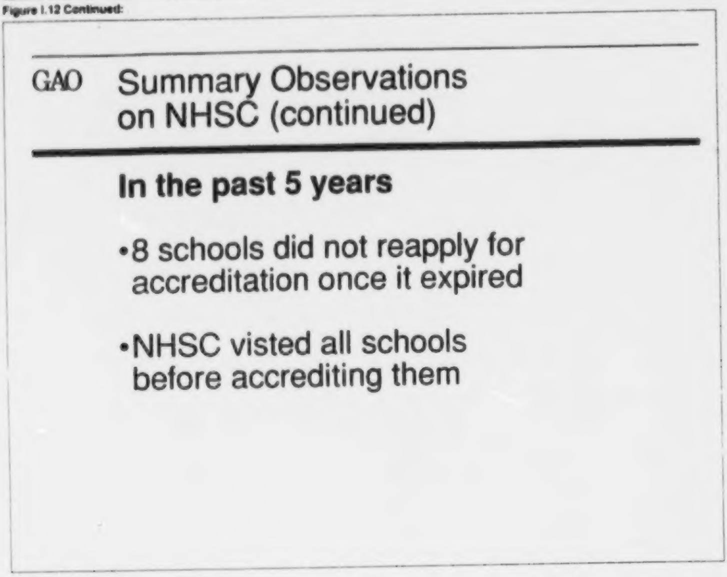
GAO

Summary Observations on NHSC (continued)

In the past 5 years NHSC

- newly accredited 21 schools
- reaccredited 26 schools
- terminated its accreditation for 9 schools
- initially accredited 25 schools, deferred 11, and denied 10 accreditation

Figure I.12 Continued:



GAO Summary Observations on NHSC (continued)

In the past 5 years

- 8 schools did not reapply for accreditation once it expired
- NHSC visted all schools before accrediting them

Figure I.13:

GAO

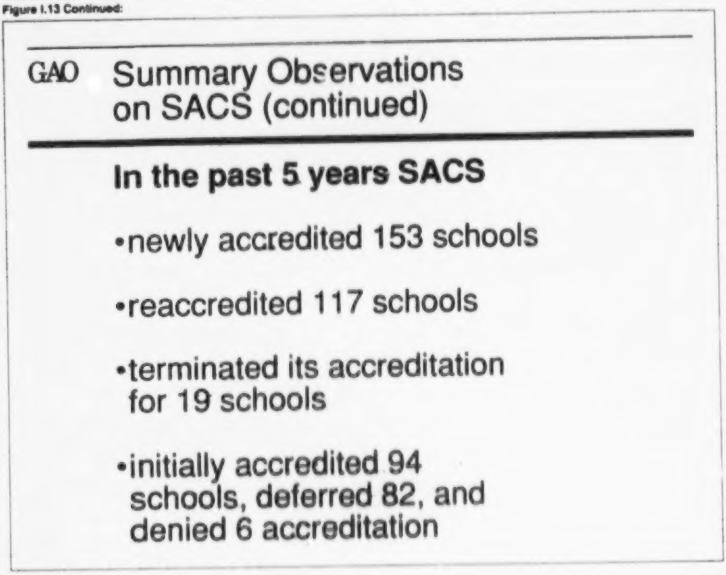
Summary Observations on SACS

Currently accredits

- 439 proprietary schools and branches
- 42 schools with dual accreditation

- No data were available on the number of schools that withdrew their applications for accreditation

Figure I.13 Continued:



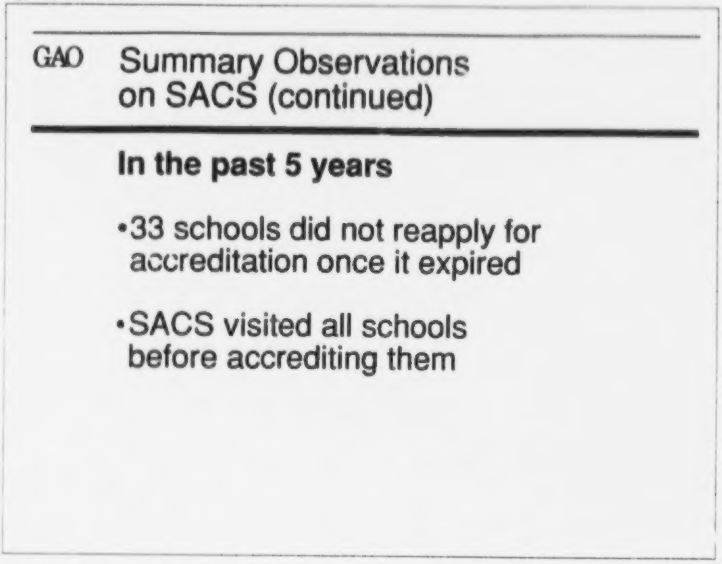
GAO

Summary Observations on SACS (continued)

In the past 5 years SACS

- newly accredited 153 schools
- reaccredited 117 schools
- terminated its accreditation for 19 schools
- initially accredited 94 schools, deferred 82, and denied 6 accreditation

Figure I.13 Continued:



GAO

Summary Observations on SACS (continued)

In the past 5 years

- 33 schools did not reapply for accreditation once it expired
- SACS visited all schools before accrediting them

Appendix II

Major Contributors to This Briefing Report

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Guaranteed Student Loans: Legislative and Regulatory Changes Needed to Reduce Default Costs (GAO/HRD-87-76, Sept. 30, 1987)

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 38

FY 1988 DEFAULT INFORMATION BY DEFAULT AMOUNT

"MILLION-DOLLAR SCHOOLS"

FOR SEVEN ACCREDITING AGENCIES:

ACCET, ABHES, AICS, NACCAS, NATTS, NHSC, AND SACS

FY 1988 Default Information by Default Amount
Institutions accredited by ACCET

	ID	NAME	ST	ACCR BODY	DEF.RATE	DEF.AMT	NUM.BORROWERS	
1	023015	CAMBRIDGE TECHNICAL INSTITUTE	OH	ACCET	81.5	8282384	4820	3928
2	023499	TRI-STATE SEMI-DRIVER TRAINING	OH	ACCET	38.2	7035720	5584	2134
3	022216	DRET SCHOOL	OH	ACCET	60.5	5711787	3753	2271
4	023556	INTERNATIONAL INSTITUTE OF TRANSPORTATION RESOURCES	OR	ACCET	39.6	3395320	2976	1179
5	023543	GEORGIA SCHOOL OF BARTENDING	GA	ACCET	43.0	2701355	1869	803
6	024995	AMERICAN TRANSPORTATION EDUCATION CENTERS	MO	ACCET	33.5	1305967	1091	366
— 7	023326	METROPOLITAN TECHNICAL INSTITUTE AND BUSINESS COLLEGE	CA	ACCET	31.1	1286692	1798	559
8	023183	AMERICAN CAREER ACADEMY	MI	ACCET	58.6	1235642	871	510
9	023125	BROOKLYN TRAINING CENTER	NY	ACCET	55.0	1174544	925	509
10	023066	NEW WORLD INSTITUTE	IL	ACCET	47.6	1157547	1241	591
11	024992	JAY TRUCK DRIVER TRAINING CENTER	MO	ACCET	32.9	1072973	1245	409
12	021930	CHESAPEAKE BUSINESS INSTITUTE OF VIRGINIA	VA	ACCET	58.5	1041595	856	501
13	025010	COLLEGE OF THE AMERICAS	OK	ACCET	25.4	1030777	197	50
14	022824	NATIONAL TECHNICAL COLLEGE	CA	ACCET	38.7	1030248	1373	532

FY 1988 Default Information by Default Amount
Institutions accredited by ABHES

	ID	NAME	ST	ACCR BODY	DEF.RATE	DEF.AMT	NUM.BORROWERS	
1	022168	CALIFORNIA INSTITUTE	CA	ABHES	65.4	5308551	2991	1957

FY 1988 Default Information by Default Amount
Institutions accredited by AICS

	ID	NAME	ST	ACCR BODY	DEF RATE	DEF AMT	NUM.BORROWERS	
1	021578	AMERICAN HI-TECH BUSINESS SCHOOL	NY	AICS	36.9	7604673	7085	2614
2	022414	BARCLAY CAREER SCHOOLS	NY	AICS	47.1	7543109	5433	2557
3	021324	BARCLAY COLLEGE	CA	AICS	43.1	6938285	5546	2391
4	008482	MANSFIELD BUSINESS COLLEGE	TX	AICS	29.5	5642368	10696	3159
5	010821	AMERICAN COLLEGE	AR	AICS	60.1	5338291	4167	2505
6	021654	TRAINCO BUSINESS SCHOOL	IL	AICS	42.5	4916938	4775	2030
7	020977	AMERICAN BUSINESS INSTITUTE	NY	AICS	24.4	4722005	8407	2055
8	005127	SOUTHERN OHIO COLLEGE	OH	AICS	39.2	3859469	5516	2165
9	021318	JEFFERSON BUSINESS COLLEGE	DC	AICS	46.7	3542758	3932	1837
10	022088	FIRST BUSINESS SCHOOL (THE)	IL	AICS	52.4	3311536	2106	1104
11	020692	PACIFIC COAST COLLEGE	CA	AICS	12.3	3222000	8996	1110
12	010063	DELTA CAREER COLLEGE	LA	AICS	47.7	3194509	3048	1454
13	007944	WATTERSON COLLEGE	KY	AICS	44.3	2809810	4019	1781
14	010877	AMERICAN BUSINESS INSTITUTE	CA	AICS	43.8	2588128	2543	1115
15	022032	DICKINSON BUSINESS SCHOOL	MO	AICS	26.3	2486980	3442	904
16	021774	TRANSWESTERN INSTITUTE	CA	AICS	42.4	2243026	1892	802
17	011963	DELTA JUNIOR COLLEGE	LA	AICS	54.4	2162427	2010	1094
18	021493	SCS BUSINESS & TECHNICAL INSTITUTE	NY	AICS	6.4	2015420	14304	917
19	011142	SAWYER COLLEGE	OH	AICS	79.9	1811919	1331	1064
20	021026	ROYAL BUSINESS SCHOOL	NY	AICS	31.7	1807998	2772	880
21	023041	WILSHIRE COMPUTER COLLEGE	CA	AICS	28.9	1780571	2864	878
22	022336	DOROTHEA B LANE SCHOOLS	MO	AICS	63.5	1643009	1202	763
23	003169	OKLAHOMA JUNIOR COLLEGE OF BUSINESS AND TECHNOLOGY	OK	AICS	34.1	1603226	2092	714
24	021162	COMMERCIAL PROGRAMMING UNLIMITED	PA	AICS	29.6	1594804	2965	877
25	012460	APOLLO BUSINESS AND TECHNICAL SCHOOL	NV	AICS	49.2	1587415	1276	628
26	004866	STAUTZENBERGER COLLEGE	OH	AICS	23.7	15[illegible]5914	2549	605
27	021780	HARGEST VOCATIONAL TECHNICAL COLLEGE	TX	AICS	39.9	15[illegible]5069	1872	746
28	021814	HSTA BUSINESS COLLEGE	IL	AICS	53.8	1493792	1224	658
29	010076	COMPUTER PROCESSING INSTITUTE	CT	AICS	22.2	1409216	2828	627
30	012294	PHILLIPS JUNIOR COLLEGE	NC	AICS	61.6	1[illegible]0282	1179	726
31	002678	BRYANT & STRATTON BUSINESS INSTITUTE	NY	AICS	17.4	1351078	2720	473
32	010372	ADELPHI BUSINESS COLLEGE	AZ	AICS	10.[illegible]	1279412	5153	547
33	011193	STRATFORD SCHOOL (THE)	NY	AICS	23.6	1261236	2555	602
34	009[illegible]47	WEBSTER CAREER COLLEGE	CA	AICS	24.5	1240709	2060	504
35	004567	METROPOLITAN BUSINESS COLLEGE	IL	AICS	54.8	1216000	1355	[illegible]3
36	004939	RICE COLLEGE	TN	AICS	37.4	1190840	1363	510
37	012128	SOUTHWESTERN COLLEGE OF BUS	OH	AICS	32.5	1135965	1648	536
38	011153	PHILLIPS JUNIOR COLLEGE	LA	AICS	28.7	1093337	2396	687
39	010577	UNITED COLLEGE OF BUSINESS	CA	AICS	12.1	1090189	4645	563
40	004863	WOOSTER BUSINESS COLLEGE	OH	AICS	35.2	1089709	1291	454
41	005202	FRANKLIN COLLEGE	KY	AICS	17.1	1075742	2870	491
42	010129	PHILLIPS JUNIOR COLLEGE OF SPARTANBURG	SC	AICS	67.2	1070965	936	629
43	021852	ILLINOIS SCHOOL OF COMMERCE	IL	AICS	46.6	1013172	902	420
44	013013	MANHATTAN CAREER INSTITUTE	NY	AICS	33.4	1006791	1531	512

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FY 1988 Default Information by Default Amount
Institutions accredited by NACCAS

	ID	NAME	ST	ACCR BODY	DEF RATE	DEF AMT	NUM BORROWERS	
1	007515	ROBERT FIANCE HAIR DESIGN INSTITUTE	NY	NACCAS	40.4	4622113	3867	1561
2	007806	RURERT FIANCE HAIR DESIGN INSTITUTE	NY	NACCAS	38.3	2451376	2344	852
3	007809	WILFRED ACADEMY OF HAIR AND BEAUTY CULTURE	NY	NACCAS	35.2	1775670	1647	579
4	020639	ROYALE BEAUTY COLLEGE	IL	NACCAS	59.5	1738339	1153	686
5	007674	AMERICAN BEAUTY COLLEGE	WI	NACCAS	39.1	1249873	1577	617

FY 1988 Default Information by Default Amount
Institutions accredited by NATTS

	ID	NAME	ST	ACCR BODY	DEF RATE	DEF AMT	NUM BORROWERS	
1	012846	LAWTON SCHOOL FOR MEDICAL AND DENTAL ASSISTANTS	CA	NATTS	47.0	7815680	5199	2441
2	023221	PROFESSIONAL CAREER CENTERS	TX	NATTS	49.0	7602935	4678	2292
3	012047	M T A SCHOOL, RESIDENT SCHOOL	PA	NATTS	19.7	7069965	13650	2694
4	021461	CHAUFFEUR'S TRAINING SCHOOL	NY	NATTS	49.8	6963114	6321	3147
5	020926	FTC CAREER INSTITUTE	PA	NATTS	45.6	6468158	6394	2914
6	007518	APEX TECHNICAL SCHOOL	NY	NATTS	34.8	5550740	5892	2049
7	009022	ASSOCIATED TECHNICAL COLLEGE	CA	NATTS	38.9	5375342	5782	2249
8	021346	GENERAL EDUCATION AND TRAINING - HOME STUDY	MO	NATTS	45.1	4556977	3569	1609
9	020885	CLIMATE CONTROL INSTITUTE	OK	NATTS	28.2	4384231	682	192
10	022430	SOUTHWEST COLLEGE	CA	NATTS	35.1	3682451	3429	1205
11	020837	VOCATIONAL TRAINING CENTER	MO	NATTS	68.0	3681768	2162	1470
12	021377	SUPERIOR TRAINING SERVICES	IL	NATTS	43.8	3410020	2931	1283
13	022549	HAUSMAN COMPUTER ASSOCIATES SCH OF COMPUTER PROGRAMMING	NY	NATTS	63.5	3381844	2303	1463
14	021644	INTERNATIONAL TRAINING	CO	NATTS	51.3	3324354	1800	923
15	011830	BERK TRADE & BUSINESS SCHOOL	NY	NATTS	37.6	3130014	3503	1317
16	022475	ARIZONA INSTITUTE OF ELECTROLYSIS DIV UNIF SCH OF AME	AZ	NATTS	49.3	3125629	2027	999
17	023189	UNITED STATES TRUCK DRIVING SCHOOL	CO	NATTS	41.6	3034952	2519	1048
18	023017	EMPIRE CAREER CENTER	NY	NATTS	43.8	3030806	2605	1142
19	010508	CBM EDUCATION CENTER	TX	NATTS	46.4	2974281	3106	1440
20	007427	SOUTHWEST TECHNICAL COLLEGE	OK	NATTS	22.6	2711742	1329	301
21	009363	EMPIRE TECHNICAL SCHOOL	NY	NATTS	50.3	2495989	2220	1116
22	008221	UNIVERSAL TECHNICAL INSTITUTE	AZ	NATTS	15.6	2487760	3893	606
23	010351	PSI INSTITUTE	NY	NATTS	10.4	2415428	9404	980
24	022920	DIESEL TRUCK DRIVER TRAINING SCHOOL	WI	NATTS	36.7	2373731	2628	965
25	022551	INSTITUTE OF SECURITY AND TECHNOLOGY	PA	NATTS	44.6	2367190	2305	1027
26	020860	VIDEO TECHNICAL INSTITUTE	TX	NATTS	21.9	2178391	3911	858
27	021581	GOLDEN STATE SCHOOL	CA	NATTS	23.4	1992305	3868	906
28	020775	MOUNTAIN STATES TECHNICAL INSTITUTE	AZ	NATTS	27.6	1735809	1978	545
29	022041	NEW ENGLAND TRACTOR TRAINING SCHOOL	MA	NATTS	28.5	1733647	2339	666
30	012482	AMERICAN TRADES INSTITUTE	TX	NATTS	37.9	1723559	2241	850
31	009828	NATIONAL EDUCATION CENTER-NAT'L INST OF TECH CAMPUS	MI	NATTS	28.0	1458831	1796	503
32	010316	LINCOLN TECHNICAL INSTITUTE	IL	NATTS	31.3	1452226	1781	557
33	010631	ALBERT MERRILL SCHOOL	NY	NATTS	39.3	1406721	2084	819
34	020671	MAGNA INSTITUTE	NY	NATTS	26.5	1295151	1605	426
35	021550	OVST CAREER ACADEMY	PA	NATTS	39.2	1292228	1517	595
36	023337	AMERICAN BARTENDERS SCHOOL	CA	NATTS	32.9	1279349	1034	340
37	010463	NATIONAL TECHNICAL SCHOOLS	CA	NATTS	6.1	1181089	7800	475
38	022886	WESTERN TRUCK SCHOOL	CA	NATTS	27.4	1160700	1085	297
39	007329	ITT TECHNICAL INSTITUTE	IN	NATTS	17.6	1108061	2290	402
40	022938	STRIP DEALER'S SCHOOL	NV	NATTS	38.8	1050706	1034	401
41	021103	SIHDEX TECHNICAL INSTITUTE	TX	NATTS	26.8	1038319	1602	430
42	021547	MIAMI TECHNICAL COLLEGE	FL	NATTS	41.1	1030588	1329	546
43	022967	COMMERCIAL TRAINING SERVICES	OR	NATTS	32.8	1025779	1174	385
44	022878	NATIONAL TRACTOR TRAILER SCHOOL	NY	NATTS	28.5	1005967	1606	457

FY 1988 Default Information by Default Amount
Institutions accredited by NHSC

	ID	NAME	ST	ACCR BODY	DEF.RATE	DEF.AMT	NUM.BORROWERS	
1	021280	SUPERIOR TRAINING SERVICES	AZ	NHSC	43.0	27044040	30951	13322
2	012282	USA TRAINING ACADEMY, HOME STUDY	DE	NHSC	53.1	24727598	23841	12656
3	022952	UNITED SCHOOLS	FL	NHSC	30.5	11423808	19049	5819
4	022959	AMERICAN CAREER TRAINING TRAVEL SCHOOL	FL	NHSC	29.1	5519463	7433	2163
5	020528	COUNTY SCHOOLS - HOME STUDY	CT	NHSC	22.6	3113151	9181	2071
6	022030	NATIONAL TRAINING	FL	NHSC	33.8	2280085	3200	1083
7	011219	COLUMBIA SCHOOL OF BROADCASTING, HOME STUDY	CA	NHSC	19.6	1406829	3574	699
8	021658	NATIONAL TRAINING SYSTEMS - CORRESPONDENCE SCHOOL	MD	NHSC	28.7	1343858	2115	607

FY 1988 Default Information by Default Amount
Institutions accredited by SACS

	ID	NAME	ST	ACCR BODY	DEF.RATE	DEF.AMT	NUM.BORROWERS	
1	022511	HEALTH CARE TRAINING INSTITUTE	TN	SACS	65.6	5107718	3272	2145
2	020801	UNITED COLLEGE	FL	SACS	49.0	4263931	3891	1908
3	023235	METILS WELDING SCHOOL	TX	SACS	69.0	4122416	1619	1117
4	023345	UNITED CAREER CENTER	FL	SACS	41.3	3184405	3599	1486
5	021514	COASTAL TRAINING INSTITUTE	AL	SACS	36.0	2211110	3139	1131
6	022546	CONCHO CAREER INSTITUTE	TX	SACS	23.4	1999927	2769	649
7	021492	TEXCEL CAREER CENTER	TX	SACS	43.6	1803199	1628	709
8	013024	RILEY COLLEGE	AL	SACS	46.5	1682247	1445	672
9	022602	DIESEL DRIVING ACADEMY	LA	SACS	38.6	1461627	1315	507
10	021615	BAYTOWN TECHNICAL SCHOOL	TX	SACS	40.0	1420355	1752	701
11	022640	AMERICAN TECHNICAL INSTITUTE	TX	SACS	26.5	1049684	1780	471

FY 1988 Default Information by Default Amount
Institutions with multiple accreditations

	ID	NAME	ST	ACCR BODY	DEF.RATE	DEF.AMT	NUM.BORROWERS	
1	021210	SOUTHERN TECHNICAL COLLEGE	OK	NATTS ABHES	48.3	4621333	2981	1440
2	022114	JAY TRUCK DRIVER TRAINING CENTER	MO	NATTS ACCET	42.1	2561981	2176	916
3	021065	AMERICO TECHNICAL CAREERS INSTITUTE	LA	SACS AICS	66.1	2461492	1739	1150
4	010909	TEXAS COLLEGE OF MEDICAL AND DENTAL CAREERS	TX	NATTS ABHES	32.6	1400480	1751	570
5	022702	INTERNATIONAL AVIATION AND TRAVEL ACADEMY	TX	SACS NHSC	33.7	1336824	1545	520
6	004057	NATIONAL COLLEGE	SD	AICS NCA	16.5	1144816	2600	429

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Senate Permanent Subcommittee
on Investigations

EXHIBIT # 41

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF LEGISLATION

FAX COVER SHEET

TO : Hal Lippmann

FROM : Martha Clement

OUR OFFICE NUMBER IS (202) 401-1028

OUR FAX NUMBER IS (202) 401-1438

YOUR FAX NUMBER IS 224 1972

NUMBER OF PAGES 4 INCLUDING THIS COVER SHEET

Per Subcommittee Request:

1) Accrediting Agency Evaluation Branch (AAEB) Travel & Staffing Data

2) National Advisory Committee Decision Activity, 1980-1990

AAEB TRAVEL BUDGET 1980-1990
(IN THOUSANDS)

YEAR	BUDGET AMOUNT
1980	8.0
1981	8.0
1982	8.0
1983	8.0
1984	9.0
1985	10.0
1986	10.0
1987	12.0
1988	13.0
1989	15.0
1990	20.0

AAEB STAFFING PATTERN - 1980-1990

YEAR	# ANALYSTS*	#SUPPORT STAFF	# DETAILED
1980	4	2	-
1981	4	2	-
1982	5	2	-
1983	5	2	-
1984	4	2	-
1985	4	2	-
1986	4	2	-
1987	6	3	1
1988	5	2	1
1989	5	2	-
1990	6	2	4

* Does not include supervisory personnel who also may have done analyses.

'91 S&E Request is not specific as to accreditation. OPE is lowest aggregate unit mentioned.

NUMBER OF AGENCIES REVIEWED BEFORE ADVISORY COMMITTEE 1980-1990

FISCAL YEAR	# INITIALS	# RENEWALS	# INTERIM REPORTS	# OTHER
1980	1	23	0	7
1981*	0	0	0	0
1982**	3	22	21	3
1983	5	18	3	1
1984	3	21	8	8
1985	3	23	22	4
1986	0	9	7	3
1987	4	29	11	2
1988	7	33	11	1
1989	2	17	26	2
1990	3	9	22	1 (only 1 meeting so far)

* No Advisory Committee actions during FY.

** Includes some actions reviewed under Interim Procedures I & II (No Advisory Committee review)

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 51

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE

3580 WILSHIRE BOULEVARD, ROOM 800
LOS ANGELES 90010
[illegible]

October 29, 1990 (213) 736-7715

Senate Permanent Subcommittee on
  Investigations,
Government Affairs Committee
SR 100, Russell Senate Office Building
Washington, D.C. 20510

Dear Senators:

Hearings on Vocational Schools/Accrediting Associations

The California Attorney General's Office has for some time been very active in trying to clean up the mess caused in California by unscrupulous vocational schools. By now you must be, as we are, so familiar with the horror stories that they seem almost commonplace:

-The monolingual Spanish speaking man who was so enthused after talking to the recruiter about the opportunity to work part time, learn English and enter a career that he left his $4.00+/hr. job in a marble factory to enroll. The ability to benefit test was given to him in English. He was given the answers. He was given only one month of English class and could not, of course, understand the rest of the course taught only in English. He is back working at another marble factory at $4.00+/hr., but now owes several thousand dollars for his "education."

-The young woman with one arm who was enrolled in a word processing course and told that the school would place her in a job. She too now owes thousands of dollars, but cannot do word processing.

-The computer repair students who did not have computers on which to train. One of the students who had taken some junior college math taught the math portion of the class because the teacher did not understand it. Promised jobs at large companies like Rockwell never materialized. Many of these students now owe $10,000 or more in student loans.

-The students who were promised auto technician classes including preparation to become certified smog test mechanics. Neither the school nor the teachers were certified to teach the course so the students are not qualified even to take the test to

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become smog check mechanics. The school's auto shop was a parking lot with temporary tents and space heaters. One student was sent by the school to apply for a minimum wage job in a tire repair center. The course had nothing to do with tires. This less than four months course cost over $5,000.

-The young mother who enrolled in a home study course that promised to prepare her for entry level word processing and other computer jobs. The salesman told her she would also receive a computer and software so she could run a business in her home. The course did not even teach typing/keyboard skills necessary to build the speed necessary for entry level jobs. The software was educational software that printed on every page, "For educational use only." The first half of the course was very easy but when the student received a computer to work on in the second half of the course, the lessons suddenly became much more difficult, especially because she never could get any help on the school's 800 number. She, like over eighty percent of the students in the course, dropped out. She owes over $3,000.

This office has sued several schools and obtained preliminary injunctions and asset freezes, pending trial. We have sued an accrediting agency. We have met with other school owners and recruiters to convince them to stop unlawful practices. We have contacted news media to gain their cooperation in keeping ads for schools out of the "Help Wanted" sections.

This office also sponsored a bill that is now one of the strongest vocational school laws in the nation. The law requires outside recruiters to make certain disclosures, prohibits schools from enrolling students recruited by outside recruiters during a three-day cooling off period, permits students to cancel within five days of classes and owe nothing, prescribes a pro rata refund and requires that schools meet performance standards by graduating sixty percent of their students and placing seventy percent of the graduates in jobs within six months after graduation.

Although we believe these are all significant advances, we have found these efforts extremely difficult, time consuming and less than a solution to the problems. One school spent over $300,000 in attorney's fees in less than six months just fighting the imposition of a preliminary injunction. Another school went into a Chapter 11 bankruptcy shortly after we sued it and now claims to have available for restitution to students less than one sixtieth of the minimum amount we estimate is required to compensate them. We have been told again and again by officials at the U.S. Department of Education that even if we obtain judgments against crooked schools, the U.S. government will continue its collection efforts against the student victims. Our efforts at legislation were met with massive industry fund-raising to prepare legal action to prevent the state from implementing the new statute and to lobby for measures to drastically weaken the law.

It is clear that the problems originate with the ability of vocational schools to benefit from federal money often for inflated price courses and that state efforts alone cannot resolve all the problems. This office wishes to bring to your attention facts that your committee may want to consider regarding (1) the role of accrediting associations and (2) student/lender/guarantee agency/taxpayer liability for loans granted to students victimized by vocational school scams.

ACCREDITING ASSOCIATIONS

1. Shifting Accreditation

As you know, this office sued the accrediting association commonly known as ACCET. ACCET accredited National Technical College while the school was under an order to show cause and order for a complete reevaluation by its prior accrediting association, commonly known as ABHES. Under separate cover, we have sent a copy of a pleading filed in this case that details the events in the ACCET accreditation of NTC. The documents from the two accrediting bodies show that for over one and one-half years before ACCET accredited NTC, within three months after ACCET granted accreditation and continuing for over another year and one-half until after we filed our lawsuit, NTC was a constant source of student complaints and negative findings in accrediting body visits, with one extraordinary exception--the visit when ACCET accredited NTC.

The documents also show that ACCET ignored NTC's admission in its self-evaluation report prepared for ACCET accreditation that it used employment agencies to recruit students, although it is strictly against the law and most accrediting body standards to use job offers to recruit students and agencies that refer/recruit students are required by California law to have a permit to solicit students and to post a bond. The documents also suggested that the employment agencies were not just sending students over to NTC out of the goodness of their hearts because during one year NTC spent over $230,000 in commissions, more than it spent for supplies including books and equipment rental.

2. Failure to Use Available Information in Accrediting Decisions

In the course of this office's lawsuit against NTC, five or more former employees testified under oath or provided sworn statements that one or both of the owners of the school, Anatoly and Sofia Bidny, directed them to either destroy student records, hide student files or falsify student documents before visits from the accrediting body. Employees "created" ability to benefit tests to put in files for students who had never taken a test before enrolling, moved boxes of dropped student files out of the school, falsified placement data and created false documentation to mislead the accrediting agency into believing that the "Help Wanted" ads that triggered student complaints were placed not by the school, but by a separate company that was no longer in business.

This sworn testimony was available to ACCET, but ACCET's attorney informed me that ACCET could not use that evidence in considering whether the school's accreditation should be revoked. The information was also made available to another accrediting association for another of the Bidny's schools, but we believe they too felt precluded from using it.

Our investigations suggest that unscrupulous schools often lie and falsify records to avoid losing accreditation. It appears that the accrediting associations are not geared toward uncovering such deliberate prevarications. Employees we interview often tell us they answered all the questions put to them by the accrediting bodies, but no one asked them about the wrongdoing they knew occurred. Thus, the accrediting bodies may have difficulty finding violations, some may not be motivated to find them, and their procedures prevent them from even using testimony given under oath outside of the accrediting procedure.

3. Inadequate Screening of New Courses

Several accrediting associations appear to allow their accredited schools to start new programs before they are approved by the accrediting body. Often new programs are started without adequate equipment, curricula or books. This is a common complaint in a number of schools. This office is now investigating.

Even course approval is not adequate. The National Home Study Council ("NHSC"), for example, allowed a school it accredited, United Education & Software, to offer a new computer training course. The UES advertising said the course would train students for entry level computer jobs such as data entry, word processing, etc. The course materials included no training or testing in typing/keyboard skills. It is difficult to believe that entry level word processing jobs would not require some minimum speed for typing or data entry. We do not know if NHSC did not have expertise sufficient in that field, allowed new courses to be offered without review, or if it never reviewed the advertising, or a combination of those. Whatever the cause, we estimate this course earned UES over $22 million in less than two years.

In another instance, this office sued Beta Technical Schools over its auto technician course that used a parking lot for a workshop and was not state-certified to offer the smog device training program it promised. ACCET accredited the course based on a written request received approximately two months after the course started. The course continued for months in the parking lot and never was certified.

4. Destruction/Non-Production of Accrediting Records

Although California law now requires accrediting associations to turn over information (on a confidential basis if so requested by the state pursuant to a confidential investigation) to appropriate state law enforcement authorities, non-disclosure of records may still be a problem in other states. Before the new California law, some accrediting bodies refused to provide records on California schools being investigated by the state attorney general and even refused to honor state administrative subpoenas.

Another similar problem is the rapid destruction of accrediting association records. NHSC has indicated its policy is to keep as little as possible. NHSC policy is to destroy records of schools that relinquish their accreditation. Although this office sued UES, when UES relinquished its NHSC accreditation, NHSC policy allowed it to destroy records that may have contained valuable evidence. (We do not know if NHSC in fact destroyed those records.) ACCET has a policy of destroying complaint files when the complaint resolution process is finished. Often the record of similar complaints over time is crucial to show a continuing unfair or unlawful business practice, not to mention the usefulness of records in considering whether a school is effectively resolving its problems. California requires schools, for example, to maintain records for five years. A similar period for accrediting associations would be helpful in prosecution.

This office is currently investigating schools that are accredited by accrediting agencies not named above but are also recognized by the U. S. Department of Education. We believe the examples used are the norm rather than aberrations.

LIABILITY TO REPAY THE VICTIMS' LOANS

Generally schools base their tuition fees on the maximum amount of federal grants and federally insured loans for which the course is eligible. One school told this office that it reduced its tuition from $5000 to $1800 when it no longer participated in the federal programs, even though it offered exactly the same course.

Often a school sends all its student loans to one or two lenders. The relationship is between the school and the lender, not between the lender and the student. Students seldom have any contact with the lender. Lenders claim they are not subject to students' claims against the school. The U.S. Department of Education, perhaps realizing it is looking at a problem similar to the savings and loan disaster, has not shown a willingness to shift the duty to repay from the victims. The U.S. Department of Education, guarantee agencies and lenders have avoided the issue of who should bear the responsibility when schools defraud students. If the Department of Education or Congress does not relieve students who have suffered the scams from their heavy debts, states may be forced either to seek additional defendants among the parties involved or to turn their enforcement activities to areas where they may be more productive, leaving enforcement to the federal government.

OTHER INFORMATION

We have previously provided copies of pleadings and California legislation (AB1402). Enclosed are changes to the law that went into effect September 1990. The California vocational school law may be useful in your future consideration of revisions to federal regulations. Please contact this office if we can be of further assistance.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Margaret Reiter by JS
MARGARET REITER
Deputy Attorney General

enc. as noted

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 53

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September 7, 1990

The Honorable Sam Nunn
Chairman, U.S. Senate Permanent
Subcommittee on Investigations
United States Senate
Washington, D.C. 20510

Dear Senator Nunn:

John F. Sopko, Deputy Chief Counsel of the Senate Subcommittee on Investigations asked me to submit a written statement regarding the problems with abuse of the Guaranteed Student Loan Program (GSL) by proprietary schools. I am a Legal Aid lawyer in Alexandria, Virginia and my limited knowledge in this area is primarily the result of my representation of former students of the Culinary School of Washington, Ltd. (CSW).

In January of 1990 more than one hundred students of CSW were evicted from student housing in Alexandria because CSW failed to pay the rent. Through personally talking to more than forty students, I came to know the dark side of the GSL program. The students were enticed by aggressive recruiters in faraway places such as Puerto Rico, Oklahoma and Michigan, into moving to the Washington, D.C. metropolitan area and enrolling in CSW.

Students generally were persuaded to make the move by a story that truly was too good to be true: student housing would be paid for by a government grant, jobs and job placement assistance would be available during the training and after completing the six month course the student would enjoy the credentials and salary of a certified chef.

Other misrepresentations ranged from telling students that CSW provided transportation to classes to telling them that federal grants would cover all of the costs of schooling. The students typically applied for and received under the direction of CSW a $2,300 Pell Grant and $6,620 in GSL loans. Some students supplemented these loans with direct loans from CSW.

After enrolling in CSW, students discovered that the program was not what had been promised. The student housing was overcrowded with sometimes up to four persons (combining men, women and children) living in a one bedroom apartment. Ultimately, the vast majority of students were evicted from the student housing after CSW stopped paying the rent even though it had received payment for housing from the students. One student signed over his check after he was told that he would have to do so or face eviction, but was evicted the next day. Many of the students who were evicted had expended their minimal resources to attend CSW and were left homeless and without the means to return to their families across the United States.

Another common problem that faced students was finding a job to support themselves while they attended the school. CSW provided no employment and offered little job placement assistance beyond referring students to the classified ads in local newspapers.

Finally, students were not prepared for meaningful employment in the culinary field. Instruction was hampered by abrupt changes in teaching locations, high turnover in instructors, and a lack of quality instruction and supplies. In fact, many students incurred about $8,000 in student loan debts only to toil without pay in a cafeteria at a water treatment facility.

It is not surprising that former students of CSW frequently found that their association with the school was actually a hindrance in the job market. Many students withdrew and never received credit for the appropriate refunds towards their student loan debts. Others completed the program only to discover that a second six month program was necessary to become a certified chef. Many completed the program but never received the certificate of completion.

Sadly the GSL program is being exploited to destroy rather than develop opportunity. Students were saddled with debts and left with no meaningful skills to repay them. To my considerable dismay, the Department of Education (DOE) takes the position that it has delegated the responsibility for regulating proprietary schools to private trade associations and state agencies. Perhaps, this rationale of abdication is used to rationalize the passivity of DOE in the face of serious problems such as accounting irregularities, inaccurate attendance records, missing files, and failure to follow refund procedures, that have plagued the school for years if not since its inception. Unfortunately, the recipients of DOE's delegation of regulatory responsibility, the District of Columbia Educational Licensure Commission (ELC) and Accrediting Council For Continuing Education & Training (ACCET) were either unable or unwilling to supervise and maintain even the most minimal standards with respect to CSW.

The irony for many former students of CSW is that they face garnishment of wages and the withholding of tax refunds by the very institution--DOE--that permitted CSW to participate in the GSL program and that disclaims any responsibility for regulating CSW. DOE and the various guarantee agencies claim that as guarantors they are not subject to the school-related defenses of the students. Yet it is difficult to obtain relief from a defunct school such as CSW that reported in a bankruptcy petition filed on January 9, 1990, that it had about $100,000 in assets and about $300,000 in liabilities.

In short, the students are forced to bear the costs except for those who are "fortunate" enough to be judgment-proof, and then the taxpayer absorbs the loss. Thus, a program established with good intentions in practice provides opportunity to banks and unscrupulous schools but not to students and taxpayers. Given the potential for abuse of the GSL program by proprietary schools such as CSW, I am forced to conclude that no GSL involvement with proprietary schools would be preferable to the status quo.

Having met and talked to many students who could have benefitted from legitimate proprietary schooling, I believe that the GSL program can be improved so that everyone benefits, particularly the students and taxpayers. Legitimate proprietary institutions now operate at a competitive disadvantage when they abide by the rules and are left to struggle with the negative legacy of the less scrupulous schools that invariably close down. Furthermore, uncollectible debts are passed on to the taxpayer.

The current system suffers from a lack of accountability because no single entity acts as both regulator and guarantor. It is the division of these duties (along with the reliance on trade associations to accredit themselves) that has given rise to abuse of the GSL program by proprietary schools. It makes sense that the guarantors in the GSL program should be responsible for maintaining standards of the schooling that they are financing. If the guarantee agencies were required to guarantee a program at the same time as they guarantee loans they would have to better regulate the quality of the schooling. This accountability would promote the operation of legitimate proprietary schools and better achieve the noble goals of the GSL program.

Sincerely,

Paul Fiscella
Paul Fiscella

PF/sy

**Senate Permanent Subcommittee
on Investigations**

EXHIBIT # 54

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EDUCATION LICENSURE COMMISSION

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UNITED STATES SENATE
COMMITTEE ON GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Hearing on September 12 and 13, 1990

Statement

By
John G. Stone III
Executive Director
D.C. Education Licensure Commission

Mr. Chairman, and other members of the Subcommittee, I am pleased to accept Chairman Nunn's invitation to provide this statement for the record. As Chairman Nunn suggested, I will address (1) our experiences with the operation of the Federal student aid program in general and the licensing, accreditation, and Federal eligibility/certification functions in particular; and (2) the Commission's involvement with the Culinary School of Washington and its branch campuses in the District of Columbia.

D.C. Education Licensure Commission

The following description of the organization and functions of the Commission will provide the necessary context for my remarks on the issues.

The D.C. Education Licensure Commission consists of five citizen members, each appointed by the Mayor for no more than two three-year terms. Annually, the members elect the officers of the Commission. This year, the Chair is Dr. Steven J. Diner, the Vice-Chair is Dr. Douglas G. Glasgow, the Secretary is Dr. Marie M.B. Racine, and members are Dr. Shirley O'Donnell Brown and Dr. Lorraine A. Williams.

The Commission was established by D.C. Law 1-104, effective April 6, 1977. The law assigned to the Commission functions previously carried out by its predecessors. These functions are to (1) license private degree-granting educational institutions operating in and/or incorporated in the District of Columbia, and their agents; (2) serve as the State Approving Agency for educational programs for veterans to attend with their benefits, under an annual contract with the U.S. Department of Veterans Affairs; and (3) maintain the student records of institutions which close and have no other depository, and issue certified copies of those records to institutions and former students, upon request.

Another basic function was transferred to the Commission from the D.C. Department of Consumer and Regulatory Affairs (DCRA) by Reorganization Plan No. 3 of 1988, which is to (4) license private, non-degree postsecondary schools and their agents. This class of schools included all but one of the postsecondary proprietary schools in the District; the only degree-granting proprietary school is Strayer College. In requesting approval of the reorganization plan by the District of Columbia Council, Mayor Barry noted the importance of the non-degree schools in our system of education, the need for improved regulation of those operating in the District, and the expertise of the Commission in licensing and regulating postsecondary educational institutions. This transfer of function was deferred until January 1, 1989, to allow DCRA to complete the license renewal cycle -- such schools are granted licenses for one year starting November 1 and ending October 31.

An additional function was assigned to the Commission by an amendment to D.C. Law 1-104, which was effective March 16, 1989. This was (5) to grant conditional exemptions from licensure to private Congressionally-chartered institutions, Semester-in-Washington programs and programs by employers at no cost to the employee; provided that certain conditions are met, including accreditation and annual reports to the Commission.

Thus, the Commission is responsible for licensing, approving for veterans or overseeing the operation of all private postsecondary educational institutions in the District of Columbia.

Currently, there are 24 licensed degree-granting institutions. There are 39 licensed non-degree postsecondary schools and 66 licensed agents of such schools. There are 43 institutions with programs approved for veterans. There are 9 institutions subject to conditional exemption, including 8 Federally chartered institutions. The Commission has 63,929 student records from 10 closed schools, from which 300 to 600 transcripts are issued annually.

The Commission is supported by a small staff which is headed by the Executive Director, who is appointed by and serves at the pleasure of the Mayor; and is responsible for professional and technical support to the Commission and the management of the Commission's affairs. In FY 1990 the Commission is authorized 11 staff positions, including two positions funded by the annual contract with the U.S. Department of Veterans Affairs.

Licensing Non-Degree Schools

As mentioned above, the Commission has been responsible for licensing non-degree schools since January 1, 1989. Until October 1, 1989, no resources were provided to the Commission for this function, but existing resources were used to make a substantial start -- new application materials were developed, new regulations drafted, applications for new licenses reviewed and acted on, and complaints investigated.

Given the absence of resources, the Commission gave the highest priority to applications for initial licensure and investigation of complaints about licensed schools. During calendar year 1989, complaints about several schools were received and sent to the schools for response, and the responses were sent to the complainants for comment; site visits to the schools were made by the staff (with outside expert advice, when needed), deficiencies to be corrected were identified and other steps were taken to resolve the issues surfaced by the complaints.

At the end of the license year (October 31, 1989), three schools still had unresolved complaints outstanding, so the Commission declined to renew the licenses for 1990; instead, it extended the 1989 licenses for 30 to 60 days to permit resolution of the complaints. By the end of December, the complaints against two of the schools had been resolved and the license renewals approved. Only the complaints against the Culinary School of Washington remained unresolved (which school is discussed below).

The Commission's policy during this transition year was to administer the current regulations, reform the licensing and regulatory system, encourage and assist reputable schools and prepare for action against schools that did not comply with the requirements of law and regulation.

One essential difference between degree-granting and non-degree institutions became apparent very early -- the centrality of Federal student aid and its processes to the larger non-degree schools. Both degree-granting and non-degree schools are heavily dependent on Federal student aid, but the non-degree proprietary schools seem to be vulnerable to having their entire operation governed by the dynamics of recruiting students with such aid, providing instruction that meets the course length requirements, and administering the institution to profit from the manner in which the Federal aid programs are designed to function. In our relatively short experience, the schools with the worst deficiencies and most complaints have been the large, accredited schools with substantial amounts of Federal student aid.

The Commission and the staff became serious students of the situation unfolding nationally regarding student aid programs, the abuses and the movement toward corrective action. And we became sensitive to the effects of such conditions within the District of Columbia. With the help of our new, diligent non-degree licensing staff, new regulations were approved by the Commission which include requirements regarding admission of students, instruction and instructors, bonding and information about completion rates and the placement of graduates. Further improvements are already under study.

During the current fiscal year (1990), the Commission has established a non-degree licensing division with 3 new positions filled, has gone through a complete license renewal cycle, has seen the consolidation or closure of some schools, has identified and initiated reaching out to unlicensed schools (as the first step in getting them licensed or taking legal action against them), has continued to refine the licensure and enforcement process, has published the new regulations, and has devoted substantial effort to the Culinary School of Washington (as described below).

We believe that these efforts have eliminated the most blatant abuses, and are seeking to identify more hidden abuses and help schools to correct weaknesses in their operations. We are pleased with the progress made in licensing non-degree schools in the first 18 months of this responsibility. However, we are still relatively new to this sector of postsecondary education, and both time and sustained commitment to improving the licensing and regulatory system will be required to achieve the goals of the law and reorganization plan.

We have established information exchange arrangements with the U.S. Department of Education, the accrediting commissions, other states and other District agencies involved in regulation of these schools. Federal reform of the student aid programs has already helped us to improve our local situation, and we look forward to further reforms that will both minimize abuses and expand the opportunities for assisting students. But the Commission sees its responsibility under local law as continuing its work in this sector, whether or not Federal reforms and changes in accrediting practices are successful. We do not rely on Federal regulations or accreditation to carry out our duty to assure that honest and competent postsecondary education is provided to the citizens of the District of Columbia.

Culinary School of Washington

Senator Nunn asked me to address our involvement with the Culinary School of Washington. This school was first licensed in 1979 by the Department of Consumer and Regulatory Affairs. At one time, it was accredited by NATTS, but the accreditation at the time the Commission received the non-degree licensing authority was by ACCET. This school was the single most sustained concern and recipient of Commission attention during the first year of our responsibility for licensing proprietary trade and technical schools. However, the Commission's experience with the school did not start with the non-degree authority. In 1983 the school was granted a provisional license by the Commission to give liberal arts courses leading to an Associate Degree.

The Commission authorized the school to operate a degree credit program for one year, without degree-granting authority, on June 23, 1983, subject to a site evaluation. The authority was extended twice in the summer of 1984, because the school was moving. In December, 1984, a team of two independent experts conducted a site evaluation of the school and its branch teaching facilities. The team also investigated complaints received by the Commission. In February 1985, the team reported its findings to the Commission, and made the following recommendation:

> "The school's application for a license to upgrade its offering to an institution granting the associate degree is not recommended at this time for the following reasons:
>
> * No current and published catalog.
> * Inadequate facilities for academic instruction.
> * No library facility which meets basic library standards for an institution of higher learning.
> * Weak academic curriculum development.
> * Inconsistencies in identification and responsibilities of staff and board members.
> * Complete absence of full-time faculty members.
> * Rapid turnover of faculty and administrative staff.

- Lack of a Board of Directors to control, audit, and legitimize.
- Lack of an effective administrative system."

The school's authority to offer degree credit courses expired on December 31, 1984. After receiving a copy of the site evaluation report and the Commission Executive Director's advice that the Commission would not authorize the school to grant degrees or to operate, the school withdrew its application. At this time, the Commission had no authority to license non-degree schools.

Between 1985 and 1989, the school operated as a non-degree proprietary school under license by DCRA. The Commission occasionally received complaints about the school, which it referred to DCRA. On March 13, 1987, the Chair of the Commission wrote to the Director of DCRA to express the Commission's "serious and continuing concern about the situation" at the school, referring to the Commission's communication with the Department of Education about the school, and urging him "to take appropriate enforcement action."

Transfer to the Commission

Prior to transfer of the non-degree licensing function to the Commission on January 1, 1989, the Culinary School's license had been renewed by the Department of Consumer and Regulatory Affairs for the license year November 1, 1988, through October 31, 1989. In March 1989, after the transfer of function, the Commission began receiving complaints from students, former students and former employees, individually and in groups. As of January 25, 1990, over 50 written complaints had been received, not including oral complaints to staff, or to Commissioners at Commission meetings. The Commission began to investigate the complaints, and at one stage or another of the investigation informed the Department of Education, the state of Virginia, HEAF, ACCET and the other agencies of the District of Columbia about the investigation.

The nature of the complaints, which covered virtually every area of the school's operation, and the actions by the Commission and its staff are set forth in my report to the Commission on January 25, 1990, copy of which is attached (minus the exhibits, which can be furnished). Since that report is both concise and complete, I will not repeat its contents in this statement.

As can be seen from the report, the commission's site evaluation and final investigation of complaints and responses was cancelled due to a last-minute move of the school. The Commission's observation of the ACCET site evaluation was not done, because the ACCET visit was cancelled on the day it was scheduled to begin, as a result of the school's filing for bankruptcy.

The January 25 report found the Culinary School to be in violation of two requirements of the licensure regulations, namely, furnishing false or misleading information (1) to the Commission and (2) to prospective students. The charges, specifi-cations and findings are set forth, together with my recommendation that the Commission disapprove the school's application for renewal of its license for the year ending November 1, 1990.

At the Commission meeting on January 25, 1990, I submitted my report, and reported that the Office of the Corporation Counsel had advised me that the Commission might continue to exercise its police power authority over the school, despite the school's filing for Chapter 11 bankruptcy on January 11. Based on my report, the Commission adopted Resolution No. N-90-52, which disapproved the school's application for license renewal. The previously extended license would expire on January 31, after which the school would continue to operate only to teach out the commitments to enrolled students and conduct an orderly closure.

I so notified the school on the next day, and informed them of their right to request a hearing before the Commission within seven days. The school subsequently requested a hearing, and the Commission set the date as February 28, 1990, and proceeded to prepare for it. The staff, which would be prosecuting the case before the Commission, proceeded to line up witnesses and, with advice of counsel, to prepare to present the case against the school. The Commission, with separate counsel and independent of the staff, began preparations for holding the hearing. Within two days of the hearing, the school proposed a consent decree and the hearing was cancelled.

Meanwhile, the school had petitioned the Federal Bankruptcy Court for the District of Columbia to issue a temporary restraining order (TRO) against the Commission. On January 31, Judge Teel held a hearing, and concluded (1) that the bankruptcy filing did not bar the Commission from acting, but (2) since the school would be irreparably harmed if a TRO was not issued, and the District would not be so harmed if it were issued, he issued the TRO stopping the Commission's enforcement of its order for ten days. Subsequently, the school and Commission consented to an extension of the TRO to March 12, in order to permit the Commission to hold its hearing on February 28.

On February 26, two days before the Commission's scheduled hearing, the school's attorney submitted a proposed consent decree, for purposes of settlement. With advice of Counsel and in consultation with Commissioners, I rejected the proposal and countered with a proposed agreement. On February 27 the agreement was executed by Dr. Steven Diner, Commission Chair, and the school's attorney. As can be seen from the attached copy, the agreement provided for the closure of the school in the manner previously required by the Commission, i.e., immediate cessation of enrolling new students, teach-out of all existing students, closure by June 30 and surrender of student records to the Commission. The Commission agreed to cancel the hearing and extend the school's license to June 30, 1990, solely for purposes of orderly closure.

The teach-out was completed at Chef's Restaurant of Georgetown, and the student records have been transferred to the Commission. In June, the school asked for a further extension of the license, but the Commission denied the request and the license expired on June 30. Although the school spent the period from March through June "reviewing and organizing" the student records, the Commission staff had to spend 18 days of full-time work by 2 to 5 people each day, in order to consolidate duplicate folders, remove duplicate material and alphabetize the folders. Approximately 17,000 folders furnished by the school were reduced to 9,000. The index list furnished by the school was useless.

To the best of our knowledge, the Culinary School of Washington no longer operates in the District of Columbia. However, the owners appear to be actively pursuing other educational business opportunities. Attached is a copy of a letter that we understand they started sending to schools and colleges in June, offering to provide them a money making opportunity by engaging the Culinary School's owners to conduct a culinary arts program at their school.

Conclusions

It is difficult to specify succinctly the results of the massive learning process that we have gone through since January 1989. However, some lessons come to mind. What follows is my personal opinion, as a result of the advice of our non-degree licensing staff. I have had no opportunity to obtain the Commission's concurrence.

1. The states are the first and proper place for educational institutions to be approved and institutional regulation and monitoring to occur. Neither the Federal Government, nor private organizations such as accrediting commissions can do this as well as the states which have adequate capability-- although a partnership may work best for Federal student aid programs. This principal is reflected in the State Approving Agency process specified by the Congress for veterans educational benefits. Reimbursement of states would, of course, be required if this system were adopted for Federal student aid programs.

2. The manner in which the Federal student aid programs have been regulated or enforced (it's hard to say which) has invited abuse by unscrupulous school owners. Fortunately, many (perhaps most) of the school owners are honest and competent. Recent reforms, such as those enacted by the Congress last December and the newest requirements of the Department of Education and the accrediting commissions, point the way to needed changes.

3. The changes must strengthen the Federal student aid programs, not result in closing doors of educational opportunity to those who need it most, and whom our country most needs to educate and employ. Private trade and technical education is an essential part of our system, and the only avenue to success open to many citizens.

4. Specific improvements that we have adopted or are considering, and which might be applicable to Federal student aid programs include:

    a. Recruitment. Either eliminate or severely restrict the use of recruiters who are not employees of the school, under their direct supervision and control; especially those who operate on commission payment.

    b. Advertisements. Monitor carefully the advertisements used by the schools, and require changes when they are misleading.

c. Admission. Retain an alternative to the high school diploma, at least for many manual trades; and improve the reliability of ability-to-benefit tests, by independent third party development of tests, or administration of tests, or scoring of tests, or all three.

d. Financial Aid Function. Require absolute separation of the admission and financial aid functions and personnel within schools, perhaps by prohibiting specific discussions of financial aid until the student has been admitted or found to be admissable.

e. Site Visits. Provide for periodic on-site evaluation visits by the public agency responsible for institutional approval, using independent subject-matter experts when necessary.

f. Complaints. Establish and advertise a complaint system that can call attention to abuses, and follow-up every complaint to the point of resolution or determination that the complaint is unfounded or unreasonable.

g. Credentials. Require the diploma or certificate to state exactly what it represents, in terms of instructional program.

h. Completion and Placement. Establish a uniform method for calculating completion rates, and placement rates for occupational training programs; require periodic reports, and (over time) identify area and industry norms.

i. Enforcement. Vigorously enforce law and regulations. There is no substitute for making it utterly predictable that deficiencies and abuses will be uncovered and either corrected or become the cause of adverse action against the school (and individuals responsible, where appropriate). Go as far as necessary to prosecute those who refuse to comply. In short, make compliance cost-effective and abuses too costly to practice.

There are, of course, many other program-specific improvements that can be considered for Federal student aid programs, many of them already under discussion among those affected.

There is one consistent pattern that we have noticed in every school that has gone under leaving students with uncompleted education and substantial loans to repay: disbursement procedures for both grants and loans have made the Federal aid money too accessible to the school. This cash flow too often becomes the foundation of the survival of the school and the sole objective of the management. This is compounded when discovery of irregularities in the disbursement and use of the student funds has not led to compliance by schools. Funds to be repaid to the government or refunded to the student never quite get paid in full. The recruitment of students becomes the important function, not their instruction or graduation. Practices such as those described in the attached advertisement by the Culinary School of Washington -- which encourage people from anywhere in the country to enter with no apparent personal cost at all -- result in indiscriminate admission, large cash infusions and high drop out rates. A profit is made whether students drop out or not.

The 30-day delay in disbursement after enrollment, for schools with default rates over 30%, seems to be improving this situation. Some additional steps for other schools, or for all schools, should be developed to address this problem. Identifying such steps is not hard; the difficult task is to correct abusive practices by schools without having the students wind up as the ones who are punished.

If Federal assistance to states to strengthen their regulation of private postsecondary schools is considered, one important element could be the establishment of a national computer data base on schools and owners. This clearinghouse would provide state licensing agencies with information about other locations in which the school or its owners has been licensed; has had a license denied, suspended or revoked; or has been convicted of unlawful practices in the operation of an educational institution. At present, disclosure by the applicant and informal communications among state licensing officials are the only sources of such information; they are often inadequate to prevent proven abusers from taking advantage of a new group of unsuspecting students. Federal assistance to assure that the simple lack of information does not permit this to continue would be of substantial benefit to state licensing agencies. Then, if the agency provides a fresh start to such schools and owners, it could at least do so knowingly.

Thank you for the opportunity to submit this statement. I trust that it will be of some interest to the members of the Subcommittee as they proceed with their important work in higher education programs.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EDUCATION LICENSURE COMMISSION

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Culinary School of Washington
Staff Report
Proposed Rejection of Application for License Renewal
January 25, 1990

I. Recommendation

Based on the charges and specifications set forth below, which constitute violations of the regulations governing licensure of proprietary schools in the District of Columbia, as described below, the staff of the Education Licensure Commission ("the Commission") recommends that the Commission reject the application of the Culinary School of Washington, Ltd, ("the school") for renewal of its license for the license year November 1, 1989 through October 31, 1990; as provided in sections 1209 and 1210 of the regulations codified at Title 16, Chapter 12 of the D.C. Code of Municipal Regulations (Exhibit 1).

II. Charges and Specifications

A. Charge No. 1: Furnishing false or misleading information to the Commission, or failure to furnish information requested. Regulations, section 1209(b).

Specifications: The school failed to inform the Commission of its plans to move its principal business office from 1634 Eye Street, N.W., to Third and G Streets, N.E., or to obtain the Commission's approval of the new facility; failed to amend its application for license renewal to be complete and accurate, including providing the Commission with evidence of the required Certificate of Occupancy for the new location; and both provided misinformation to the Commission, and failed to provide information to the Commission in a timely way about the planned move and the consequence of making it impossible to conduct the site evaluation arranged with the school for January 4 through 6, 1990.

Findings

1. The school was licensed by the D.C. Department of Consumer and

Regulatory Affairs for the license year November 1, 1988 through October 31, 1989 (Exhibit 2).

2. The authority to license proprietary schools was transferred to the Commission from DCRA by Reorganization Plan No. 3 of 1988, which became effective on November 10, 1988, pursuant to Mayor's Order 88-243 (Exhibit 3).

3. On March 22, 1989, the Commission began receiving complaints about the school from students and former employees. In accordance with Commission policy, the complaints were forwarded to the school for response, then the response was forwarded to the complainant for comment. As of this date, over 50 complaints have been received; responses to many of the complaints have been received from the school, and comments on some of these responses have been received from the complainants (Exhibit 4). Starting in October 1989, complainants began attending meetings of the Commission (every two weeks) and presenting complaints verbally to the Commission. A number of other complainants called by telephone or visited the Commission's office, and were asked to submit their complaints in writing, but did not do so.

   The complaints cover virtually every area of the school's operation, and constitute allegations of the school's violations of the requirements of the regulations and the terms and conditions of its license. In every case, the response of the school was that it had resolved the complaint, or the complaint was inaccurate or the situation was not its fault. Comments by complainants dispute the school's responses.

   At several meetings, the Chairperson of the Commission informed complainants that the Commission can only approve a license (with or without conditions) or deny a license, so those with individual claims have been referred to the D.C. Department of Consumer and Regulatory Affairs, or to the U.S. Department of Education if a matter of Federal loans or grants was involved, or to the D. C. Commission on Human Rights if a matter of unlawful discrimination was alleged.

4. On September 1, 1989, the school submitted to the Commission an application for renewal of the license for the year November 1, 1989, through October 31, 1990 (Exhibit 5).

5. At its meeting on October 19, 1989, the Commission considered the applications for license renewal of schools where complaints had been received but resolution of the complaints had not been completed, among them was the Culinary School of Washington. In view of the imminent expiration of the licenses for those schools, the Commission authorized a thirty day extension of the licenses, to permit time for it to act

on the complaints (See minutes of October 19, 1989, meeting).

6. At its meeting on November 9, 1989, the Executive Director reported to the Commission that the staff had reviewed the complaints, responses and counter-responses against the school; had visited the school on several occasions and interviewed faculty and staff, and had reviewed a number of records of the school; however, due to the volume and nature of the complaints and allegations of violations of the requirements of the regulations, the staff was unable to make a reliable evaluation. The Executive Director recommended that the Commission authorize him to engage a site evaluation team of independent experts to review the allegations of non-compliance and recommend action by the Commission. The Commission agreed (see minutes of November 9, 1989, meeting).

7. At its meeting on November 30, 1989, the Commission extended the license of the school once more, until January 31, 1990, in order to provide time for the team to make the site evaluation visit and report its findings and recommendations to the Commission (see minutes of November 30, 1989, meeting).

8. In response to the Executive Director's written request to the school for dates in December for the site evaluation visit, Dr. Barkev Kibarian replied by letter dated November 17, 1989, suggesting a date in the first week in January (Exhibit 6). The Commission accepted the suggestion and set January 4, 5, and 6 as the dates for the visit. The Executive Director put together a five member team, and made necessary arrangements to conduct the visit. By letter dated December 27, 1989, the school set forth its objections to the team members; whose curricula vitae had been sent to the school (Exhibit 7). By letter to the school, dated December 28, 1989, The Executive Director specified arrangements on the days of the site evaluation visit (Exhibit 8).

9. During mid-morning of Friday, December 29, 1989, Dr. Barkev Kibarian (owner of the school) called the Executive Director to suggest that the site evaluation visit be rescheduled, as they were moving the business offices of the school from 1634 Eye Street, N.W., to 3rd and G Streets, N.E., during the following week; i.e., the period scheduled for the site evaluation visit. This was later confirmed by letter dated December 29, 1989 (Exhibit 9). The telephone call was the first mention of any plans by the school to move its offices, although discussions of the site visit with the school in writing, in meetings and in telephone conversations, had been going on since mid-November.

10. Inasmuch as evaluation of a school is physically impossible when it is packing its records and moving, the Executive Director was forced to cancel the site evaluation visit, which

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had been arranged and cancelled at some inconvenience and expense to the Commission and the five evaluators.

11. By letter dated January 3, 1990 (Exhibit 10), the Executive Director informed Dr. Barkev Kibarian that the school had moved its business offices to an unlicensed location, and that the failure to inform the Commission of his intention to move might constitute false and misleading information. The 3rd and G Streets, N.E., location is the Logan School Building which was approved by DCRA for the school to use only for teaching facilities; and was listed in the material submitted with the application for license renewal as to be used for teaching facilities (Exhibit 11).

12. The staff has learned that the school's release from its lease at 1634 Eye Street, N.W., was executed on December 18, 1989, and provided for the school to remain at that address until January 31. The owners have refused to furnish a copy of that document, so the school has been asked to do so (Exhibit 12). It is evident that the school had begun arranging for its move well before December 18, and that it did not have to move during the week of the scheduled site evaluation visit. It appears probable that the school moved at that time to evade evaluation by the Commission's team.

13. The school's lease for space in the Logan School Building at 3rd and G Streets, N.E., expired on December 31, 1989 (Exhibit 13). That lease provides for the school to use kitchen and classroom space, but does not provide for the school to occupy the space as its principal office business. No new lease has been signed.

14. The staff obtained an opinion from the DCRA Zoning Division (Exhibit 14), which indicates that the school is required to have a Certificate of Occupancy for its business office at the Logan School Building at 3rd and G Streets, N.E., and an affidavit from the DCRA Occupancy Branch (Exhibit 15) that no such certificate had been issued. As of this date, no Certificate of Occupancy has been issued to the school. Such a Certificate of Occupancy is required to be submitted with a school's application for licensure.

15. By letter dated January 11, 1990, the attorneys for the school informed the Executive Director of the filing for bankruptcy under Chapter 11, and said that the Commission was thereby stayed from all actions against the school (Exhibit 16). The Executive Director consulted Deputy Corporation Counsel Hines, who transmitted by telephone advice that the Commission's authority to deny the renewal of the license after the Chapter 11 filing was not clear, and that the Commission should defer any such action until its authority is clarified by the Office of Corporation Counsel. The Executive Director so advised the

Commission at its meeting on the same evening, and furnished Commissioners copies of the bankruptcy filing (Exhibit 17).

16. As a result of its change of address and the lack of a Certificate of Occupancy and possible other errors, the application for license renewal submitted by the school to the Commission is no longer accurate and cannot be approved. No effort has been made by the school to revise and up-date that application.

17. The Executive Director finds that the school is in clear violation of the licensure regulations, that the school has failed to act in good faith with this Commission, and that it is operating in a manner that prevents the students from getting the education, and other benefits that they were led by the school or agents to believe they would get and have contracted for at a cost of up to $6,390 (plus fees of $810) for a six month program.

B. Charge No. 2: Furnishing false, misleading, or fraudulent information to a prospective student or the students' parent(s) or guardian(s). Regulations, section 1209.1(c).

Specifications: The school advertised its provision of housing to prospective students, and had students sign agreements that, in exchange for their payment of $325 per month, it would assure such housing for up to a year; then issued a notice to students that the housing arrangements would be terminated, effective January 31, 1990. Furthermore, students have been evicted from housing leased for them by the school, because the school has failed to pay rent and other costs to the owners of the housing. Thus, the school has falsely promised housing to students, has failed to meet its obligations to students for housing, and has caused substantial hardship to students who were evicted.

Findings

1. The school has advertised that, "Upon arrival in Washington, you will be given a key to your apartment" (Exhibit 18).

2. The school obtained students' signatures on "Agreements" that purported to commit the school to enter into leases for apartments, provide the security deposit to the landlord, assure payment of the rent to the landlord, and act as surety for a period of up to and no longer than a year, so long as the student is actively enrolled as a student. The students agreed to have $325.00 deducted monthly by the school from their pell grant GSL, SLS and/or Plus loan, to pay to the landlord (Exhibit 19).

3. On December 27, 1989, the school issued a notice to all CSW students that it would no longer offer housing or housing service for its students, that students would have "to make arrangements to find your own apartments," and that housing arranged for them would not be available after January 31, 1990 (Exhibit 20).

4. Even before January 31, students began to be evicted from housing arranged by the school, because the school had failed to pay rent due the landlord (Exhibits 21 and 22).

5. The Executive Director has determined that the school provided false and misleading information to prospective students by advertising the provision of housing, getting students to sign a purported agreement which appeared to guarantee that such housing would be provided so long as they were actively enrolled in the school, terminating the housing for students who had been put into it, and causing eviction and hardship to such students by failing to pay the rent and other charges due to the owners of the property.

John G. Stone III
Executive Director

1/25/90
Date

AGREEMENT

The Culinary School of Washington, Ltd. ("the School") and the Education Licensure Commission ("the Commission") hereby agree to dispose of the pending application of the Culinary School for renewal of its license upon the following terms and conditions:

1. The School hereby withdraws its application for license renewal filed on September 1, 1989 for the period November 1, 1989 through October 31, 1990.

2. The Commission hereby extends the School's existing license to June 30, 1990, for the limited purpose of effecting an orderly closure of the School in accordance with the Commission's guidelines for closing an institution. In accordance with these guidelines, the Culinary School will:

    a. Cease all recruiting activities and cease all enrollment of new students, effective on the date of this Agreement;

    b. Complete its teaching responsibilities to all currently enrolled students who wish to complete their training at the School:

    c. Submit to the Commission within twenty-one (21) days of the date of this Agreement, a closure plan, which states how the school will comply with subsection (b) above and the following requirements:

        1. Provide the Commission a list of all the names and addresses of all students currently enrolled, the date of enrollment, the program in which enrolled, the projected date of completion of the program, and the total cost to the student if the program is completed;

        2. Notify all enrolled students of the closure plan, describing their financial obligations as well as their rights to a refund or adjustment consistent with the provisions of 16 DCMR 1211; and provisions made for assistance toward completion of their academic program, whether in the School that is closing, or by transfer;

        3. Provide the Commission with copies of the closure notices, including copies of all communications sent to students;

        4. Submit in writing to the Commission for prior approval any proposed revision of the instructional programs described in the 1989-90 Catalogue of the School;

5. Make provision for transfer of all official records of the students to the Commission's office, and notify students of this location and that they may obtain official copies from the Commission;

6. Notify the Corporations Division of the D.C. Department of Consumer and Regulatory Affairs of the status of the School or corporation, including the filing of a final report, if appropriate;

7. Protect the rights of staff, suppliers, and creditors, in accordance with the orders of the U.S. Bankruptcy Court for the District of Columbia; and

8. During the closure process, within ten (10) days of the end of each month submit monthly progress reports to the Commission on closure under the plan noting anticipated or serious problems, beginning with the report for March 1990. The Commission will monitor the closure, and require the School to comply with the objectives as well as the specific provisions of the approved closure plan.

d. The records deposited with the Commission shall be in alphabetical order and shall include, at a minimum, the academic records of each student, as follows:

(a) Academic transcripts showing the basis for admission, transfer credits, courses, credits, grades, graduation authorization, and student name changes for each student;

(b) Transcripts of financial aid for each student;

(c) Foreign student forms for foreign students;

(d) Veterans Administration records for veterans;

(e) Copies of degrees, diplomas and certificates awarded to students (if maintained);

(f) One set of course descriptions for courses shown on transcripts; and

(g) Evidence of accreditation, if any, during years covered by transcripts.

3. The School is entering into this Agreement because it believes this to be in the best interests of the current students and graduates of the School, the current staff of the School, and all other persons doing business with the School.

4. The School has entered into this Agreement on the express condition that this action shall not be deemed an admission of any violation of the laws of the United States, the District of Columbia, or any other political subdivision of the United States by the School, or its past and present officers, directors, employees or agents. Nor shall this Agreement be construed as an admission by the School, its past and present officers, directors, employees and agents, of any allegations of any wrongdoing contained in the files of the Commission, or any other branch or agency of the Government of the District of Columbia.

5. The record of the Commission's action on the renewal of the School's license will remain open for fifteen (15) days for purposes of receiving submissions by the School or others; provided that this provision will not affect any other provision of this Agreement.

For the Education Licensure Commission

2-27-90

Steven J. Diner, Ph.D.
Chair

Date

For the Culinary School of Washington, Ltd.

2-27-90

Stephen P. Matthews
Schwalb, Donnenfeld, Bray & Silbert, P.C.

Date

CULINARY
SCHOOL
of WASHINGTON, LTD.
300 G St. N.E.
Washington, D.C. 20002
(202) 543-7358

Dear President:

I have initiated and operated a chef's training school for the past twelve years here in Washington. As of August, 1989, we had as many as 600 students with revenues exceeding six million dollars. I am a former university president and tenured professor at Georgetown University and have been a director of recruiting for over ten years.

I would like to propose that we establish a similar chef's training program on your campus. We will provide the curriculum and expertise, and can assure you a minumum or 100 students for the first year. They could not only aid in operating your cafeteria, but could also take some of your existing appropriate courses in preparation for a certificate or degree to be awarded by your institution.

Such a program could be an important source of revenue--I can assure you a minimum of $500,000 net profit the first year and $1,000,000 the second--with almost no capital outlay if you already have a cafeteria and kitchen facilities, and if you do not local kitchens can be rented during their down time.

I look forward to discussing this proposal with you. Please call for a discussion.

Sincerely,

Barkev Kibarian

Barkev Kibarian, Ph.D.
Chairman of the Board

P.S. I am also interested in the purchase of a school or joint ventures.

TABLE I

INITIATING & MANAGING A GOURMET CHEFS PROGRAM ON YOUR CAMPUS PROJECTED INCOME & PROFIT

Revenue - per class		
Tuition per student $8400 25 Students - length of Program 16 Weeks 40 hours per week		$210,000
Direct Cost per Class		
Food $6 per day x 25 students x 80	= $12,000	
Instruction $15 per hour x 640 days	= 9,600	
Books, Lesson Plan, Uniform, Knives	= 12,500	
Advertising per Class	= 6,000	
Total Operating Costs		40,100
Gross Profit		$169,900

* * * * * * * * * * * *

Revenue - 225 Matriculating Students 1st Year 3 Classes every 4 Months 9 Classes per Year	$1,890,000
Direct Costs 9 Classes or 225 Students	360,900
Gross Profit - 1st Year	$1,528,100

Table II

Cash Flow - Scheduled Use of Funds and Distribution of Profits for First Class

Class I Gross Revenue		$210,000
Minus Initial Outlay by Institution	$50,000	
Minus Cost of Program	40,000	90,100
Profit after Initial Outlay and Direct Cost of First Class		$119,900

Class II - To begin one month after 1st Class started

Projected Cost of Class II to be deducted from Revenue earned from 1st Class Revenue	50,000
Distribution of Remaining Profit	$69,900
50% for Institution	$34,950
50% for B.X.	$34,950

Institution recoups its original advance of $50,000 & the costs of operating the 1st class.
New Classes financed from profits.
Institution need not put in any new funds.
Institution realizes 70% return on investment in four months.

Table III

Cash Flow, Classes II through IX, Illustrating Use of *Additional Expenses & Increased Percentage of Profit for your Institution: 60% for your Institution Starting with 5th Class & 70% Starting with 9th Class

Class II Gross Revenue	$210,000	
Minus Cost of Program Cost of Equipment, Faculty, Supplies	50,000	
	$160,000	
*New Full-time Recruiter	50,000	
Gross Profit before Allocation		$110,000

Class III Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*New Director of Program	50,000	
Gross Profit before Allocation		$110,000

Class IV Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Second Recruiter	50,000	
Gross Profit before Allocation		$110,000

Class V Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Assistant to Director	30,000	
Gross Profit before Allocation		$130,000

* *

At this point, the profit distribution becomes 60% to the Institution and 40% to B.K.

* *

Table IV

Gross Revenue for First Year, Profit after Expenses & Profit Distribution to your Institution & B.K. with Rate Increases in your Favor

Class	Gross Revenue	Total Profit After Expenses	To Institution	To B.K.
			(50%)	(50%)
I	$ 210,000	$ 69,900	$ 34,950	$ 34,950
II	210,000	110,000	55,000	55,000
III	210,000	110,000	55,000	55,000
IV	210,000	110,000	55,000	55,000
			(60%)	(40%)
V	210,000	130,000	78,000	52,000
VI	210,000	130,000	78,000	52,000
VII	210,000	130,000	78,000	52,000
VIII	210,000	100,000	60,000	40,000
			(70%)	(30%)
IX	210,000	160,000	112,000	48,000
Totals	$1,890,000	$1,049,000	$605,950	$443,950

Table V

Gross Revenue, Expenses, and Profit for the First & Second Years & Third Year & Profit Allocation

	Gross Revenue	Expenses	Total Profit	Profit to the Institution	Profit to B.E.
1st Year	$1,890,000	$840,100	$1,049,900	$605,950	$443,950
2nd Year	1,890,000	840,100	1,049,900	734,930	314,970
3rd Year	1,890,000	840,100	1,049,900	944,910 (2)	104,990 (1)

(1) The buy-out figure, at the end of the 2nd year is (1/3)(314,970) - $104,990 if the institution desires.

(2) Assumes Buy-out.

Increased Revenue could result by expansion of number of kitchens and recruiting.

Class VI Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Assistant to Recruiters	30,000	
Gross Profit before Allocation		$130,000

Class VII Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Job Placement Director	30,000	
Gross Profit before Allocation		$130,000

Class VIII Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Director of Marketing & Advertising Public Relations, Production Costs	60,000	
Gross Profit before Allocation		$100,000

Class IX Gross Revenue	$210,000	
Minus Cost of Program	50,000	
Gross Profit before Allocation		$160,000

* *

At this point, the profit distribution becomes 70% to the Institution and 30% to B.K.

* *

I. Buy-out Provision

At any time after the end of the second Year, the Institution may buy-out the program for a payment equal to one-third of the profit share of B.K. over the previous twelve months.

II. Formula for Success:

Recruiting of good quality student body.
Retention--through counseling.
Rolling enrollment to replace drop-outs.
Cost Control to meet budget.
Training of recruiters, Director (responsible for retention), and faculty.
Discourage jobs while in school.
Strong job placement after graduation.
Signed contract with employer to deduct from pay check any loans to school or government.
Alumni relations.

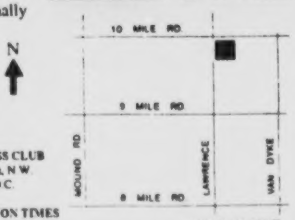
III. Residual Industry:

Temporary employment agency.
Permanent employment agency.
Replace all or part of contract feeding.
Catering pizzas or full meals to local residents.

NEEDED
FOOD PREP PEOPLE
WILL TRAIN FOR CHEF POSITION

Must Travel to Washington, D.C. Area

The jobs we have range from $7.00 to $14.00 an hour to start. We have a Gourmet Chef Training School in Washington, D.C. and what we propose to do for you if you qualify: #1) We can arrange prepaid transportation to Washington D.C. #2) Upon arrival in Washington, you will be given a key to your apartment, which you will share with one other person. #3) You will be given an ample supply of groceries, sometimes jobs hold back the first week's check. #4) A bus pass will be issued to you, so you can travel back and forth to work and class. #5) We will apply to the U.S. Government on your behalf for Federal Grants and other forms of financial aid to help see you thru comfortably. Then, after six months of hard work and training by master chefs, you will graduate as a certified gourmet chef with credentials, and we will assist in placing you in a good job anywere in the U.S., normally starting salary of $18,000 - $25,000- a year.



7200 E. 10 MILE
Suite 1
Centerline, MI 48015
313-755-3303
FAX 313-755-3309

Special classrooms are located at the following restaurant and kitchen facilities. Students may train at some of these.

THE ASCOT
1708 L. Street, N.W.
Washington, D.C.

CSW Spring Valley Campus
4822 Yuma Street, N.W.
Washington, D.C.

NATIONAL PRESS CLUB
529 14th Street, N.W.
Washington, D.C.

WASHINGTON POST
225 Virginia Avenue, S.E.
Washington, D.C.

NATIONAL LAWYER'S CLUB
1818 H. Street, N.W.
Washington, D.C.

THE WASHINGTON TIMES
3600 New York Ave., N.E.
Washington, D.C.

Financial Aid, if You Qualify
Placement Assistance
Housing and Travel Available

CULINARY SCHOOL OF WASHINGTON, LTD.

LOCAL ADMISSION OFFICE 7200 EAST 10 MILE RD., SUITE 1
CENTERLINE, MI 48015

313-755-3303

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 55

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EDUCATION LICENSURE COMMISSION

717 FOURTEENTH STREET N W
SUITE 801
WASHINGTON D C 20005

(202) 727-3511
FAX (202) 727-0436

September 10, 1990

The Honorable Sam Nunn
Chairman, Permanent Subcommittee
on Investigations
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510-6250

Dear Senator Nunn:

This supplements my statement for the record of the Subcommittee's hearings on September 12 and 13, in reply to questions from Mr. John Sopko of the Subcommittee staff.

1. Date of original license of the Culinary School of Washington?

   According to the files transferred to the Commission, the school was incorporated on May 8, 1978. The initial license was issued by the D.C. Department of Consumer and Regulatory Affairs to the Culinary College of Washington on November 2, 1978, and was renewed on January 14, 1980. Subsequently, the name was changed, and a renewal of the license was issued to the Culinary School of Washington on December 8, 1980. A copy of each license is enclosed.

2. What arrangements were made by the Culinary School of Washington to teach out its commitments to students?

   In their closure plan of March 20, 1990, which was accepted by the Commission, the school reported only nine students currently enrolled--all being taught out at the Chef's Restaurant in Georgetown (copy enclosed). Independent verification by the Commission's staff established that the students were being provided the instruction committed by the school, and that they completed their courses in April.

   The owner of Chef's Restaurant informed the Commission's staff that he was teaching out the school's students at his own expense, inasmuch as he had formerly terminated his agreement with the school due to lack of payments (see enclosed letter of December 15, 1989).

3. What were the circumstances of the request for an extension of its license by the Culinary School of Washington in June 1990?

BEST COPY AVAILABLE

Page 2
The Honorable Sam Nunn
September 10, 1990

By letter dated June 27, 1990, Mary Ann Kibarian asked the Commission to extend the license for an additional month for the limited purpose of effecting an orderly closure. Specifically, the letter stated that the extension was needed, "because of certain regulations of the Department of Education which preclude an institution from receiving Title IV funds unless the institution is licensed and eligible to receive funds not only when such funds are earned, but also when such funds are received." A copy of the letter is enclosed.

The Commission's staff inquired whether or not the Department of Education had such a requirement, and was informed that it did not (see enclosed letter dated June 28, 1990). Accordingly, the Commission denied the request for extension of the license.

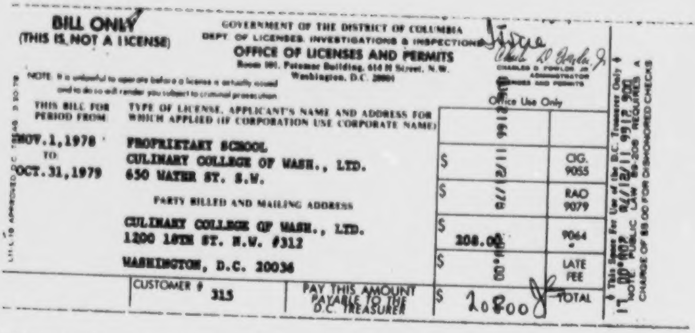
4. What follow-up, if any, was made by the DCRA to its investigator's recommendation in 1986 that the school's license be revoked?

The non-degree licensing files for this and other schools that are now in the Commission's possession are those received from DCRA when the licensure function was transferred. Those files appear to be only the most recent files of the Business License Division; earlier records were not transferred, and may have been either retired to a depository or disposed of. No other records were received from DCRA, and the investigatory files were not received by the Commission. Inquiries about those records will have to be directed to the DCRA's Office of Compliance.
The Commission did maintain a file of inquiries, complaints and other materials that it received concerning the Culinary School of Washington in the years prior to the transfer of the licensure function. Those materials provide no continuous record, because the Commission received them incidental to its own functions. The investigator's report, referred to by Mr. Sopko, is in that file; but there is no material showing a follow-up action prior to the transfer of function by the Commission. In fact, that report was provided to the Commission after the transfer, and after the Commission began its own investigation of complaints against the school -- see my enclosed letter of August 23, 1989, to DCRA about the report, which stated my understanding that the matter of refunds was still pending before DCRA, under the consumer protection powers that DCRA retained. Again, inquiries regarding the file on this and any other investigations will have to be directed to DCRA.

I trust that this supplemental information will be helpful to the Subcommittee.

Sincerely,

John G. Stone III
Executive Director



BILL ONLY
(THIS IS NOT A LICENSE)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPT. OF LICENSES, INVESTIGATIONS & INSPECTIONS
OFFICE OF LICENSES AND PERMITS
Room 301, Potomac Building, 614 H Street, N.W.
Washington, D.C. 20001

Issue
Charles D. Fowler Jr
CHARLES D. FOWLER JR
ADMINISTRATOR
LICENSES AND PERMITS

NOTE: It is unlawful to operate before a license is actually issued and to do so will render you subject to criminal prosecution.

LIC-L 10 APPROVED D.C. TREAS. 3-30-78

THIS BILL FOR PERIOD FROM
NOV. 1, 1978
TO
OCT. 31, 1979

TYPE OF LICENSE, APPLICANT'S NAME AND ADDRESS FOR WHICH APPLIED (IF CORPORATION USE CORPORATE NAME)
PROPRIETARY SCHOOL
CULINARY COLLEGE OF WASH., LTD.
650 WATER ST. S.W.

PARTY BILLED AND MAILING ADDRESS
CULINARY COLLEGE OF WASH., LTD.
1200 18TH ST. N.W. #312
WASHINGTON, D.C. 20036

CUSTOMER # 315

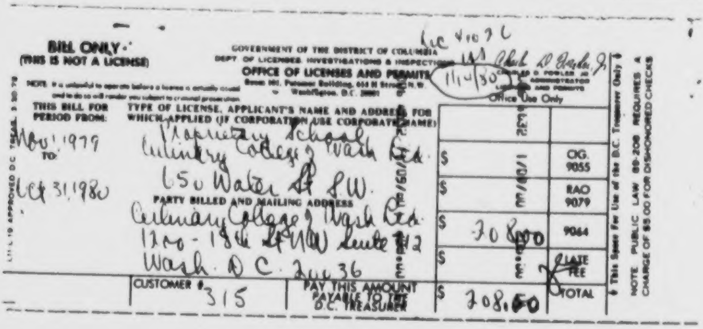
PAY THIS AMOUNT PAYABLE TO THE D.C. TREASURER

Office Use Only

$		CIG. 9055
$		RAO 9079
$	208.00	9064
$		LATE FEE
$	208.00	TOTAL

This Space For Use of the D.C. Treasurer Only

NOTE: PUBLIC LAW 89-208 REQUIRES A CHARGE OF $5.00 FOR DISHONORED CHECKS



BILL ONLY
(THIS IS NOT A LICENSE)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPT. OF LICENSES, INVESTIGATIONS & INSPECTIONS
OFFICE OF LICENSES AND PERMITS
Room 301, Potomac Building, 614 H Street, N.W.
Washington, D.C. 20001

Lic 41076
11/4/80
Charles D. Fowler Jr
CHARLES D. FOWLER JR
ADMINISTRATOR
LICENSES AND PERMITS

NOTE: It is unlawful to operate before a license is actually issued and to do so will render you subject to criminal prosecution.

LIC-L 10 APPROVED D.C. TREAS. 3-30-78

THIS BILL FOR PERIOD FROM:
Nov 1 1979
TO:
Oct 31 1980

TYPE OF LICENSE, APPLICANT'S NAME AND ADDRESS FOR WHICH APPLIED (IF CORPORATION USE CORPORATE NAME)
Proprietary School
Culinary College of Wash Ltd
650 Water St S.W.

PARTY BILLED AND MAILING ADDRESS
Culinary College of Wash Ltd
1200 - 18th St NW Suite 312
Wash D C 20036

CUSTOMER # 315

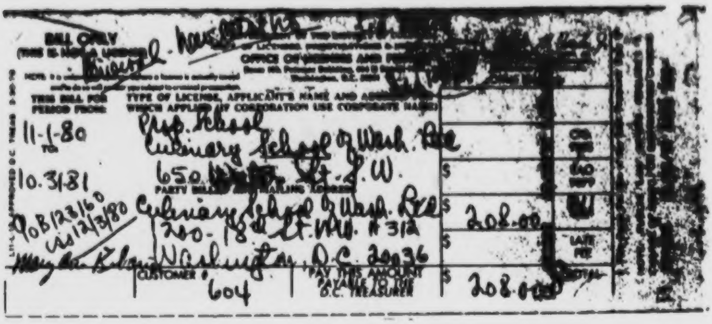
PAY THIS AMOUNT PAYABLE TO THE D.C. TREASURER

Office Use Only

$		CIG. 9055
$		RAO 9079
$	208.00	9064
$		LATE FEE
$	208.50	TOTAL

This Space For Use of the D.C. Treasurer Only

NOTE: PUBLIC LAW 89-208 REQUIRES A CHARGE OF $5.00 FOR DISHONORED CHECKS



BILL ONLY
(THIS IS NOT A LICENSE)

Renewal

OFFICE OF LICENSES AND PERMITS

THIS BILL FOR PERIOD FROM
11-1-80
TO
10-31-81

90B 12/23/80
ws 12/3/80

TYPE OF LICENSE, APPLICANT'S NAME AND ADDRESS FOR WHICH APPLIED (IF CORPORATION USE CORPORATE NAME)
Prop. School
Culinary School of Wash. Ltd
650 Water St. S.W.

PARTY BILLED AND MAILING ADDRESS
Culinary School of Wash. Ltd
1200 - 18th St. NW. # 312
Washington, D.C. 20036

CUSTOMER # 604

PAY THIS AMOUNT PAYABLE TO THE D.C. TREASURER

$		CIG.
$		RAO
$	208.00	
$		LATE FEE
$	208.00	TOTAL

CULINARY SCHOOL OF WASHINGTON, LTD.
CLOSURE PLAN

In accordance with the guidelines of the District of Columbia Education Licensure Commission ("Commission") regarding closure of an institution and the Agreement entered into by the Culinary School of Washington, Ltd. ("Culinary School") and the Commission on February 27, 1990, the Culinary School hereby submits this formal Closure Plan to the Commission. Under this Closure Plan the Culinary School will continue to operate in a manner consistent with the best interests of its current and former students. The Culinary School has made arrangements for all of its current students to complete their academic programs with the chef-instructors with whom they began their studies so as to be eligible for a Certificate of Completion from the Culinary School upon successful completion of their coursework. In addition, the Culinary School is organizing the files of its past and current students in order to minimize the burden on the Commission in responding to requests from students after June 30, 1990 for copies of their academic transcripts, Certificates of Completion and financial aid records. The key elements of the Closure Plan are as follows:

1. The Culinary School will close and cease all of its educational functions on or before June 30, 1990. As of that date, all current students in good standing will have completed their course of study at the Culinary School. A list of students currently enrolled in courses at the Culinary School, together with their

addresses, program designations, dates of enrollment, projected dates of completion, and total cost of education to each student upon completion, is attached hereto as Exhibit A.

2. The seven students currently enrolled in the Executive Gourmet Chef program are completing their training with Chef Francois Peter at Chef's Restaurant in Georgetown. The two students currently enrolled in the Pastry program are completing their training at the same location with Chef James Littlejohn. Both of these instructors are chefs of the highest calibre.

3. The Culinary School will send notices to all persons who graduated since September 30, 1989 who have not yet received their course completion Certificates from the Culinary School informing them that they can obtain such Certificates from the Culinary School directly on or before June 30, 1990, and thereafter from the Commission.1/ A copy of the Notice that the Culinary School intends to send is attached hereto as Exhibit B.

4. The Culinary School will send a Notice to all currently enrolled students in the Executive Gourmet Chef Program

---

1/ Five students who are currently enrolled have outstanding balances but have made no provision for future payment of the amounts due the Culinary School. Unless these five students execute a promissory note in favor the Culinary School, they will not be eligible for a Certificate of Completion.

and the Pastry Program informing them of the closure plans and the transfer of all student academic and financial aid records to the Commission. This Notice will also inform each of the currently enrolled students of their financial obligations to the Culinary School upon completion of their program, their right to a refund in accordance with 16 DCMR § 1211, and the assistance made available to them for completion of their academic program. A copy of the Notice that the Culinary School intends to send is attached hereto as Exhibit C.

5. The Culinary School will provide the Commission with copies of all Notices and other communications sent to the students after February 27, 1990. To date no such Notices have been sent.

6. The Culinary School has not found it necessary to revise any of the instructional programs described in its 1989-90 catalogue. All students who are maintaining satisfactory academic progress are expected to graduate according to schedule prior to the date of closure.

7. The Culinary School is in the process of assembling all the student academic and financial aid files for delivery to the Commission on or before June 30, 1990. Over the next several weeks, the Culinary School will organize all the financial aid, academic and other

records for each current and former student into a separate consolidated file. Upon completion, these consolidated files will be arranged alphabetically and indexed. This will minimize the storage space requirements and will facilitate access to student records when these files are transferred to the Commission. The Culinary School will contact the Commission some time prior to June 30, 1990 to arrange for a mutually convenient time and place to transfer these records to the Commission. These records will be turned over to the Commission on the express condition that the Culinary School and its agents will have complete and unrestricted access to these files (without charge) during normal business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m.) and the right to make copies thereof after said records have been delivered to the Commission.

8. The Culinary School will notify the Corporations Division of the D.C. Department of Consumer and Regulatory Affairs of the status of the Culinary School. If the Culinary School shall in the future elect to dissolve or otherwise terminate its corporate existence, the Culinary School will notify the Corporations Division at that time, and file any final report, if appropriate.

9. The Culinary School is operating under Chapter 11 of the U.S. Bankruptcy Code. The rights of staff, suppliers and other creditors' are protected as administrative claimants in accordance with the U.S. Bankruptcy Code.

10. The Culinary School will submit monthly progress reports to the Commission on the status of closure under this Closure Plan. These progress reports will identify any anticipated or serious problems encountered by the Culinary School in putting this Closure Plan into effect. The first report, for March 1990, will be submitted on or before April 10, 1990.

11. The Culinary School's ability to effect an orderly closure in accordance with this Closure Plan is expressly conditioned on its ability to continue its operations at the Logan Administrative Building at 3rd and G Streets, N.E., which the Culinary School is occupying pursuant to a valid Use Agreement entered into with D.C. Public Schools. The Culinary School applied for the Use Agreement on December 22, 1989 in good faith reliance on a letter dated July 18, 1988 from Henry C. Lee III, then Acting Administrator of the D.C. Department of Consumer and Regulatory Affairs, stating that the Culinary School did not need to obtain a Certificate of Occupancy for use of D.C. public buildings. The Use Agreement was approved by the D.C.

Public Schools on January 17, 1990. Nonetheless, on February 15, 1990, the Culinary School received a Notice of Infraction from the Department of Consumer and Regulatory Affairs for operating a business at the Logan Administration Building without a Certificate of Occupancy. The Culinary School will be contesting the Notice of Infraction at a hearing scheduled for March 21, 1990 at 9:00 a.m.

THE CULINARY SCHOOL OF WASHINGTON, LTD.

Date: March 20, 1990 By: Mary Ann Kibarian

Mary Ann Kibarian, President

EXHIBIT A

LIST OF CURRENTLY ENROLLED STUDENTS

Name and Address	Program	Enrollment Date	Completion Date	Amount Received	Amount Due at Completion
Robin Allen 511 S. Four Mile Run Apt. 421 Alexandria, VA 22304	EGC	12- 5-89	4- 1-90	$6,427.50	$2,311.50
Deidra Ely 4820 Emo St. Capital Heights, MD 20743	PASTRY	10-17-89	4-21-90	$7,564.38	-0-
Ronald Emory* 3913 Bruce St. Apt. 305 Alexandria, VA 22305	EGC	11-24-89	4- 1-90	$2,554.38	$6,470.62
Dan Fredrickson 10300 Appalachian Circle, Apt. 312 Oakton, VA 22124	EGC	11-25-89	4- 1-90	$8,002.50	$1,147.50
Esther Serebour* 4215 Will Street Capitol Heights, MD 20743	EGC	1- 6-90	6-15-90	-0-	$7,200.00
Faye Smith* 407 Savage Drive Apt. 7 Newport News, VA 23602	EGC	12-28-89	5-27-90	-0-	$8,620.00
Victor Wilcox* 308 N. Preston Road Vinton, VA 24179	EGC	1-12-89	5-27-90	$1,000.00	$6,200.00
Ronnie Wilkes 2474 Alabama Ave, S.E. Washington, DC 20020	PASTRY	11-10-89	4-21-90	$3,617.50	$3,582.00
Leroy Zimmerman* 911 Herbert Street Richmond, VA 23225	EGC	11-14-89	4- 1-90	-0-	$7,200.00

* These students have not made, or have refused to make, any arrangement for payment of their outstanding balances due the Culinary School.

EXHIBIT B

[CULINARY SCHOOL LETTERHEAD]

March ___, 1990

x Name of Student
x Address
x

Dear Student:

URGENT URGENT URGENT URGENT

Please be informed that if you are entitled to a transcript and Certificate of Completion from the Culinary School and want one with the official seal of the School on the Certificate, you must contact the School immediately. After June 30, 1990, all of the student records of the School will be forwarded to the District of Columbia Educational Licensure Commission, 717 Fourteenth Street, N.W., Washington, D.C., 20005 for administration and permanent storage.

Should you have an outstanding balance on your financial account, it is imperative that you contact the School and make arrangements for payment via certified check or cashier's check. If you have any questions about your account, please do not hesitate to call us at 543-7[illegible]58.

Remember, after June 30, your Certificate will be available only from the D.C. Educational Licensure Commission and without an official seal of the School, or official accredited signator of the School.

Sincerely,

Mary Ann Kibarian
President

EXHIBIT C

[CULINARY SCHOOL LETTERHEAD]

March ___, 1990

Dear CSW Student:

It is with heavy heart that I must inform you of the said occasion of the closure of the Culinary School of Washington. Due to devastating economic circumstances we will no longer be able to serve the students wishing to receive a culinary education.

Our records indicate that upon completion of your program, you will have an obligation to the Culinary School in the amount of $______________. As you have previously been informed, arrangements have been made by the Culinary School for you to complete your training at Chef's Restaurant in Georgetown under Chef [Peter or Littlejohn]. Should you choose not to complete your studies, you will be entitled to a refund in accordance with 16 DCMR § 1211. A copy of these regulations is attached to this letter.

As of June 30, 1990, all educational records will be turned over to the District of Columbia, Educational Licensure Commission located at 717 Fourteenth Street, N.W. After that date all transcripts, account ledgers and financial aid information will be permanently stored at the above stated location. You must contact the Commission from that day on should you need assistance retrieving your records. Anyone eligible for a certificate of completion should contact the school immediately. We urge you to contact the school as we will make every effort to work with you to help you obtain your credentials and Certificate with the School seal and signatures. We ask that you contact us before April 15, 1990 to help expedite and correct any issue which may have caused your certificate to be withheld.

Remember: As of June 30, 1990 copies of your educational records can only be obtained from the District of Columbia, Educational Licensure Commission.

If you have any questions about the above information do not hesitate to call us at (202) 543-7358.

Sincerely,

Mary Ann Kibarian
President

1211 REFUND POLICIES

1211.1 Each school shall furnish the Commission with a schedule of its tuition and fees and its prepaid tuition plan and refund policy.

1211.2 Each student shall be provided seventy-two (72) hours to rescind any contract and repayment of all fees and tuition. This period will commence from the date of the signing but will not include or end on any Saturday or Sunday or legal holiday.

1211.3 Each student shall be provided, on a separate sheet, notice of the student's right to rescind the contract with seventy-two (72) hours of signing and notice of the fact that, upon rescission, the student will be returned all monies advanced to the school.

1211.4 Each student shall be provided a copy of the school's tuition plan and refund policy at the time of enrollment.

1211.5 Each school's refund policy shall be approved by the Commission only when it is such that the amount retained by the school does not exceed an amount calculated in accordance with the following standards:

(a) The enrollment or registration fee shall be separately stated and the non-refundable portion thereof shall either be twenty percent (20%) of the total cost of the course or fifty dollars ($50), whichever is less; Provided, that this refund policy shall apply only after the 72-hour period immediately following signing has expired;

(b) All monies paid in excess of the nonrefundable portion of the enrollment or registration fee shall be refunded when an enrolled student requests, in the manner provided in the contract, cancellation before his or her scheduled class(es) begin(s); Provided, that this provision shall not apply to non-immigrant alien students as defined in §1499; and

(c) If a student enters training and withdraws or is discontinued from training prior to completion of seventy-five percent (75%) of the scheduled program, the school shall refund to the student a sum which does not vary more than ten percent (10%) from the exact pro rata portion of refundable tuition unexpended by the student.

1211.6 The prorated amount under §1211.5(c) shall be determined by the ratio of the number of weeks or lessons in series serviced by the school of instruction completed by the student to the total number of weeks of instruction offered. Any portion of a week's attendance by a student shall be considered a full week's attendance for the purpose of this section. In the case of correspondence schools, any portion of a lesson in series shall be considered as a completed series.

1211.7 No school shall request nor accept more than ten percent (10%) of the total tuition prior to commencement of the program or schedule. This requirement shall not apply to non-immigrant alien students.

1211.8 Each school shall make every effort to ensure that enrolled students intend to complete the respective schedules or wish to withdraw.

1211.9 Adequate records shall be kept to ensure that students who delay in requesting a refund are accommodated; Provided, that the school is not required to honor a refund request submitted subsequent to the end of the scheduled program for which the student was enrolled.

1211.10 Any refund required to be made to a nonimmigrant alien student by the provisions of this section shall be payable to that student as follows:

(a) Within 30 days after the Immigration and Naturalization Service of the United States has certified to the school which is obligated to make the refund that the non-immigrant alien student has departed from the United States; and

(b) Only in the legal currency of the country of which the non-immigrant alien student is a citizen.

CHEFS RESTAURANT, INC.
3251 Prospect Street, N.W.
Washington, D.C. 20007

December 15, 1989

BY MESSENGER

Dr. Barkev Kibarian
Chairman of the Board
Culinary School of Washington, Ltd.
1634 Eye Street, N.W.
Washington, DC 20006

Subject: Notice of Termination

Dear Barkev:

Your certified letter dated December 14, 1989, was received by me 30 minutes ago. It came as a total surprise.

I feel I have no choice but to give you this letter as formal notice of termination of your agreement with me dated December 1, 1988.

You have not paid food bills for two weeks, refuse to pay the other expenses you agreed to pay under the Agreement dated December 1, 1988, and have paid almost none of the over $20,000 of charges you have run up with us, all of which can be completely documented. You declare unilaterally in your letter that you will not pay some of the expenses you agreed to pay in your Agreement with us dated December 1, 1988. You also tell us to stop buying food, without which the restaurant would have to close immediately.

This termination is based upon material breach on your part, and is effective today.

I will be pleased to discuss the situation with you. I have been trying to reach Mary Ann all day. However, this termination notice is effective today, and a further agreement between you and us would be needed to modify it in any respect.

Sincerely,

Robert R Elliott

Robert Raymond Elliott
President
Chefs Restaurant, Inc.

CULINARY
SCHOOL
of WASHINGTON, LTD.

1 Farragut Square, South
(1634 Eye Street, N.W.)
Washington, DC 20006
202/745-2665 Toll Free 1-800-624-2314

December 1, 1988

Robert Raymond Elliott
President
Encore Restaurant, Inc.
3251 Prospect Street, N.W.
Washington D.C. 20007

Dear Mr. Elliott:

This will set forth our arrangement for the Culinary School of Washington, Ltd. to operate the kitchen and use portions of the balance of the restaurant space for teaching purposes for our students. You will operate a restaurant, Encore Restaurant, as previously planned and presented, and we will provide the food production for the restaurant as well as some assistance in serving in the dining rooms.

The terms and conditions governing this arrangement are as follows:

1. The terms of this agreement will commence December 5, 1988. Either party may terminate this agreement at the scheduled end of any work/study program (which run about four or six months each) then being conducted, upon at least thirty (30) days' advance written notice.

2. The Culinary school will have the responsibility of operating the kitchen facilities for the purpose of preparing foods as required, "laboratory experience" for its students, some of which food will then be provided for service in the dining room areas as well as other food needed in the dining room areas. The service of food to restaurant customers will commence at a time mutually agreeable to both parties but no sooner than one month after the commencement of this agreement.

3. The Culinary School shall be provided, on a seven day and night basis, the use of the kitchen and its equipment in-place. Care shall be taken to minimize sound to apartments above the kitchen. The Culinary School will also be able to utilize all equipment attached to the walls, ceiling or floors in the kitchen area, which equipment belongs to the Landlord, Georgetown Prospect Place Associates Limited Partnership,

leasing the space to Encore under the attached Store Lease (Exhibit A to this letter). You and we agree to comply with all conditions and provisions of the Store Lease.

As to free-standing equipment in the kitchen, we understand the Landlord has a contractual right to purchase any such property at used fair market value. You agree with us that we can have you cause the Landlord to use best efforts to purchase such equipment, and we have selected the items listed in Exhibit B to this letter for you to purchase. We will reimburse the Landlord the full, mutually agreed price of such items, and we will become the legal owners of such items upon your purchase of them from Glorious Food, Inc. If the Landlord is unable to conclude a purchase of any of these items, and at a price we approve, then we will not purchase them. We understand that the Landlord has requested information as to original cost from Glorious Food, Inc. many months ago, and has not received a response, and that previously, Glorious Food, Inc. had quoted a very high price for all the property. You and we agree that you will immediately cause the Landlord to advise Glorious Food, Inc. of the desire to exercise the Landord's rights to purchase property, and that the Landlord will then attempt to conclude the matter with Glorious Food, Inc.

Pending such purchase, we will use such items, and will be responsible for the loss or theft of them. On the first day we begin using the kitchen area, we will sign an inventory of these items to evidence that we have received them.

4. This agreement is contingent upon the Culinary School and you obtaining and maintaining all necessary licenses for the contemplated operation.

5. Encore will maintain all equipment (other than equipment owned by us) and facilities except for: (i) sanitation and cleaning of the kitchen area (cross-hatched area on Exhibit C hereto); (ii) plumbing drainage; (iii) light bulb replacement in the kitchen area; and (iv) routine maintenance of cooking equipment. The Culinary School will reimburse Encore for any breakage or damage identified, to any property of Encore or the Landlord, or of Glorious Food, Inc. (owner of some property pending purchase), other than normal wear and tear, or damage caused by negligence such as leaving a refrigerator closed and off.

6. Culinary School will pay all utility bills for the facility including, electricity and gas, which shall be in the Culinary School's name, its phone (but not the restaurant's phone), and estimated water/sewer usage (which is not currently

metered). Culinary School will also pay $1,500 per month on the first of every month (pro-rated for the first month), to defray a portion of other expenses of Encore including rent to Landlord. Culinary School will provide any dumpster service needed.

7. You shall have no liability or responsibility whatsoever for any losses as a result of personal injury or property damage which the Culinary School may sustain as a result of the work/study program which shall take place on the premises, and all and any claims by the Culinary School in that regard are waived.

8. The Culinary School will indemnify, defend and hold you harmless from any and all liability, loss or damage which you may suffer as a result of claims, suits, threats of suit, or actions resulting from the negligent acts or omissions of the School, its employees, instructors and students in connection with the work/study program at the premises. Further, the Culinary School will supply sufficient insurance coverage, with Encore and you personally named as insureds, for all liability and other customary coverages of the entire restaurant and school operation at the demised premises, excluding, however, liability with respect to the service of alcoholic beverages (as to which you may either decide to be uninsured, or to obtain your own insurance), and we will not take any role in the service of alcoholic beverages.

9. In addition, the School will provide, maintain and pay the premiums on a policy of personal property insurance for all personal property on the premises, with Encore as a named insureds. You and the Culinary School waive any rights of subrogation under our insurance policies to the extent permissible under these policies.

10. If any complaint on the part of either party arises, the designated persons to handle such are the Executive Vice President, or his agent, for the Culinary School and Mr. Robert Raymond Elliott, or his agent, for Encore.

11. You will manage, or provide a manager for, all aspects of the Encore Restaurant operation. The manager will have the responsibilities for the general operation and all aspects of the ordering, inventorying and sale of alcoholic beverages. He or she will coordinate the food production needed for the restaurant, the intent being to provide us with joint planning and on-going control of the contemplated operation as it relates to the Culinary School's interests and your interests.

12. Initially, to reimburse us for raw food costs (all of which we will pay, but no beverages) and some of our other expenses, you will provide to us sixty-five percent (65%) of the gross receipts from customers (net of collection losses and credit charges, and excluding sales taxes) for food sales, but excluding sale of alcoholic and non-alcoholic beverages. You will keep good and sufficient accounting records, with separation of food revenues from beverage revenues, and such other detailed breakdowns as may be mutually agreed, with a view toward enabling us to relate our food purchase records with restaurant revenue records to assist us in inventory control and accountability of our staff. As to any catering or production of food for wholesale distribution, you will be paid twenty percent (20%) of the net profit on such sales, after deduction of direct costs. You will be provided a breakdown of direct costs if you request.

Three months after the start of the food service operations, the above provisions regarding revenue to us will be reviewed by you and us to ascertain their fairness given our agreed objective to have fair compensation to us.

13. The terms and conditions of this agreement may be mutually changed by mere verbal agreement by you personally or your restaurant manager, and by anyone on our behalf other than a student, provided that you or we issue a written notice of the change within two business days.

14. The intent of this agreement is to enable Encore Restaurant to carry out its commitment to operate a first class restaurant, and for us to provide a full-time training facility for the Culinary School. The Culinary School specifically desires to have no involvement in the ordering, inventorying, securing and storage, and service to the public of alcoholic beverages. It is the intention of you and us to comply with the all provisions of the Store Lease, and all requirements of the agreements you have with neighbors and the ANC (Exhibits D and E), and with all rules, regulations and requirements of the Alcoholic Beverages Control Board.

[End of Page]

Please evidence your agreement with the above by signing and returning a copy of this letter.

Sincerely,

Ray Pennell

Ray Pennell
Executive Vice President

AGREED:

ENCORE RESTAURANT, INC.

BY Robert R. Elliott
Robert Raymond Elliott
President

12-1-88
Date

CULINARY
SCHOOL
of WASHINGTON, LTD.
300 G St. N.E.
Washington, D.C. 20002
(202) 543-7358

June 27, 1990

John G. Stone, III, Ph.D.
Executive Director
District of Columbia
 Education Licensure Commission
717 14th Street, NW, Suite 801
Washington, DC 20005

Dear Dr. Stone:

We appreciate the cooperation that you and your staff have extended to us during these difficult last few months. We wish to continue working with you as we complete our efforts to wind up the affairs of the Culinary School of Washington.

As our attorney mentioned to you yesterday, due to the requirements of the bankruptcy laws and the regulations of the U.S. Department of Education, it does not appear possible for the School to complete its orderly closure by June 30 in accordance with the agreement reached with the Education Licensure Commission last February. Yesterday, the School received a one-month extension of its Use Agreement with D.C. Public Schools until July 31. A copy of a letter from Ms. Veronica Falwell, Acting Realty Officer for DCPS, approving such extension is enclosed herewith. By this letter, I respectfully request that the Commission extend the School's license for an additional month for the limited purpose of effecting an orderly closure of the School. Other than the extension until July 31, 1990, the School wishes the February 27, 1990 agreement to remain in effect without modification.

The request is made necessary not only because of the difficulties the School has encountered in trying to wind up the operations with a skeleton staff (at present only one person is on the School's payroll--Er"na Cvikula), but also because of certain regulations of the Department of Education which preclude an institution from receiving title IV funds unless the institution is licensed and eligible to receive funds not only when such funds are earned, but also when such funds are received. The School is currently working with officials at the Department of Education to resolve certain issues regarding Pell grant funds payable to students of the School. If the Commission does not extend the School's License, when the current dispute is resolved the School will be ineligible to receive payment under Title IV--even if the funds were earned while the School was a fully licensed and accredited institution.

We sincerely appreciate whatever efforts you can take to extend the School's license for an additional month.

Very truly yours,

Mary Ann Kibarian
President

Enclosure

cc: Steven P. Matthews, Esq.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EDUCATION LICENSURE COMMISSION

717 FOURTEENTH STREET N.W.
SUITE 801
WASHINGTON D.C. 20005

(202) 727 391
FAX (202) 727-0

June 28, 1990

Victoria Edwards, Deputy Director
~~Lois Moore, Chief~~
~~Eligibility Division~~ Dade
U.S. Department of Education
7 & D Street, S.W., Room 3522
Washington, D.C. 20202

Dear Ms. ~~Moore~~ Edwards

Enclosed is a letter from the Culinary School of Washington, Ltd. requesting an extension of thirty (30) days of their license to operate in the District of Columbia. As you know Stephen Matthews, the attorney representing the school, signed an agreement on February 27, 1990 with the Commission which allowed the school to continue to operate towards an orderly closure. That agreement provided for final operation of the school to end on June 30, 1990.

The school bases their request for an extension on "certain regulations of the Department of Education which preclude an institution from receiving Title IV funds unless the institution is licensed and eligible to receive funds not only when such funds are earned, but also when such funds are received".

The Commission wants to know if the Commission does not extend the school's license will the school be ineligible to receive payment under Title IV -- even if the funds were earned while the school was a fully licensed and accredited institution.

Sincerely,

Douglas F. Somerville
Douglas F. Somerville
Chief
Non-Degree Division

Response yes______ no ✓

Victoria Edwards
U.S. Department of Education

6/28/90
Date

Enclosure

BEST COPY AVAILABLE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EDUCATION LICENSURE COMMISSION

1111 E STREET N.W.
SUITE 333

WASHINGTON D.C. 20004
(202) 727 3511

August 23, 1989

Diana Haines, Chief
Office of Compliance
D.C. Department of Consumer
  and Regulatory Affairs
614 H Street, N.W., Room 1105
Washington, D.C. 20001

Dear Ms. Haines:

Thank you for sending to Mr. Somerville copies of the investigative report on complaints by students of the Culinary School of Washington (December 30, 1986) and the supplemental report (March 14, 1988). It appears that most of the complaints were found to be groundless or resolved, except the specific complaints about the lack of refunds that students believed to be due to them.

As I understand your cover memorandum, the complaints about refunds are in some part still being pursued by DCRA. The handling of specific complaints under the consumer protection laws by DCRA is both appropriate and consistent with Reorganization Plan No. 3 of 1988, which transferred the licensing of proprietary schools from DCRA to this Commission. Several areas covered by the complaints are being investigated by the Commission and DCRA in connection with more recent complaints. The Commission considers many factors in its action on a license, and the matters described in the materials you sent us are relevant. However, the best recourse of individual consumers for action on particular complaints is still the DCRA. The sanctions of this Commission are revocation of license or prosecution for violating the licensing regulations.

The exchange of information between the DCRA and the Commission, and coordination of investigations and responses to student complaints, is one of our objectives. We have been doing well together since the Commission took over licensing these schools in January 1989, and I hope that you will continue to keep us informed.

Dr. Athel O. Logan
Chairman

Dr. Shirley O'Donnell Brown
Vice Chairman

Dr. Steven J. Diner
Secretary/Treasurer

Dr. Louise R. White
Commissioner

Dr. Lorraine Williams
Commissioner

With respect to the complaints involving Federal student loans and grants, the U.S. Department of Education and its guarantee agencies regularly audit the schools, and have the capacity to ensure repayments when required. We regularly communicate with the Department of Education when we receive a complaint about Federal loans or grants, or when they conduct an audit. Recently, the Department of Education completed an audit of the Culinary School of Washington, and we are awaiting the report.

Again, thank you for sending the information, and please continue to coordinate with us your investigation of schools subject to licensure by the Commission. We will do the same with matters under your jurisdiction.

Sincerely,

John G. Stone III

John G. Stone III
Executive Director

BEST COPY AVAILABLF

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 56

COMMONWEALTH of VIRGINIA
DEPARTMENT OF EDUCATION
P.O. BOX 60
RICHMOND 23216-2060

STATEMENT PRESENTED TO THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

U. S. SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

SAM NUNN, CHAIRMAN

BY

CHARLES W. FINLEY, ASSOCIATE DIRECTOR

PROPRIETARY SCHOOL SERVICE

VIRGINIA DEPARTMENT OF EDUCATION

SEPTEMBER 12, 1990

Mr. Chairman and Members of the Committee, I am pleased to provide the following information relative to two topics of concern to the committee: The Culinary School of Washington, Ltd. and regulation of proprietary schools at the state level. I trust that the information will be helpful.

I read with interest the minutes from the Second Session of your hearings held February 20, 26, 1990, and have drawn on some of the comments as a basis for the comments here.

PART I CULINARY SCHOOL OF WASHINGTON, LTD.

What follows is a chronological listing of key events in the period of time the Culinary School of Washington (CSW) operated campuses in the Commonwealth of Virginia (we should note that staff of the committee has already obtained copies of pertinent documents related to these activities under the provisions of the Virginia Freedom of Information Act):

13 January 1988--The staff received an application and supporting documentation for a certificate to operate a Fairfax County campus CSW. Prior to this time, we received numerous telephone calls and bits of information from this organization over a period of approximately two years regarding out of state approval status and other matters.

27 January 1984--The results of the initial review of the application was sent by letter to Mary Ann Kibarian, President and Director of school.

5 February 1988--A response to above correspondence was received from Ray Pennell, Executive Vice President.

10 February 1988--Correspondence was sent to Ray Pennell regarding continuing outstanding matters related to the application process.

18 February 1988--The required on-site precertification visit to Holiday Inn-Fair Oaks, 11787 Lee Jackson Highway, Fairfax, Virginia, was conducted by Ms. M. Carol Buchanan, Supervisor, Proprietary Schools. She was accompanied by Ray Pennell. Mr. Pennell was advised of certain items which continued to be outstanding.

4 March 1988--The outstanding items needed to complete the application process were received.

March 1988--A Certificate to Operate was issued to the Culinary School of Washington, to operate a campus at the Holiday Inn-Fair Oaks, Fairfax, Virginia.

2 May 1988--The institution submitted the required renewal application information for the 1988-89 fiscal year.

30 June 1988--Renewal application approved and certificate to operate issued.

30 September 1988--The institution submitted a request to include Lee Bakery/Caterers, 6226 Old Dominion Dr., Mclean, Virginia, as auxiliary classroom location.

14 October 1988--An on-site visit was conducted to the McLean location. Ms. Buchanan was accompanied by Mary Kay Longo from CSW. The staff issued a report and a letter granting approval of this location.

27 December 1988--The staff received a request to add an auxiliary classroom at Dulles International Airport, Virginia.

20 January 1989--An on-site visit was conducted by Ms. Buchanan. She was accompanied by Ray Pennell. A report and a letter granting final approval were issued.

8 May 1989--The institution submitted an application for renewal of Certificate to Operate for the 1989-90 fiscal year.

30 June 1989--The application was approved and a new certificate issued.

23 June 1989--An on-site monitoring visit to Fair Oaks location was conducted. Ms. Buchanan was again accompanied by Ray Pennell. Student files were not available for review, and Mr. Pennell was advised that a reinspection in the near future would be necessary. During this visit she spoke with the instructor, Harry Nothstein and several students. All indicated satisfaction with the program at that point. Mr. Pennell also indicated that they were considering expanding into the Richmond market and it was related to him what the process would involve (i.e. because of distance involved, they would not be able to branch and a complete application would have to be submitted).

7 August 1989-- A written request was submitted to approve another auxiliary classroom located at the Westpark Inn, Tysons Corner, 8401 Westpark Drive, Mclean, Virginia (prior to this date numerous phone calls had taken place regarding the matter). An on-site visit was conducted on this date as well. Ms. Buchanan was accompanied by Jeanne Kornely, Vice President for Communications and Don Kettler, Education Director. During this visit, student records were inspected as per follow-up noted on the visit report of 23 June. Also during this visit, Ms. Kornely and Mr. Kettler indicated that they wished to open up a location in the Richmond in the near future. Ms. Buchanan informed them that the Richmond location could not be a branch, due to the distance, and that a complete application would have to be submitted.

10 August 1989--Correspondence was sent approving Westpark Inn Auxiliary classroom.

12 September 1989--Ms. Buchanan advised Jeanne Kornely that we had not approved a credit hour conversion as published in revised catalog submitted for review.

20 September 1989--Ms. Kornely submitted the information requested regarding credit hour conversion.

1 December 1989--The credit hour conversion was approved.

14 November 1989--An application for a certificate to operate a school at the Executive Motor Inn, Richmond, Virginia was received.

30 November 1989--A letter outlining the results of the initial review of the application was sent to Don Kettler, Executive Vice President.

Date November, early December 1989--Ms. Buchanan received a telephone call from Jeanne Kornely regarding approval to bring students to Richmond campus on a "field trip". She related to Ms. Kornely that she was unaware of any regulations which would prohibit a "field trip" and gave her approval to proceed.

4 December 1989--The staff received a response to the correspondence related to the application review of 11/30/89. Up-to-date financial information continued to be outstanding.

14 December 1989--Ms. Buchanan conducted a precertification visit to Executive Inn, Richmond. She was accompanied by Donald Kettler and Chef Delain Allen. During the tour she observed ostensible recruiting activities taking place.

15 December 1989--The outstanding financial information needed to complete application was received.

19 December 1989--A letter was sent to Donald Kettler with copy of precertification visit report. At that time, Mr. Kettler was advised to cease and desist any recruiting activities at that campus.

20 December 1989--Douglas Sommerville, DC Education Licensure Commission, visited the office to discuss CSW issues and problems they were encountering at that time.

20 December 1989--A facsimile transmission was received from Bud Sawdy of Bud Sawdy, Inc., Ft. Lauderdale, Florida concerning numerous allegations against the operation and management of CSW. Mr. Sawdy's company was hired to recruit students for the culinary school.

22 December 1989--Donald Matthews, a representative of Bud Sawdy, Inc., delivered in excess of $56,000 in Stafford loan program checks and certain enrollment contracts from CSW-Richmond to the office.

22 December 1989--The checks were sent to Eugene Cattie, Virginia Education Loan Authority via certified mail.

27 December 1989--A recommendation to issue a Certificate to Operate for the Richmond location was withdrawn.

2 January 1990--Correspondence was sent to Barkev Kibarian, Chairman of the Board, CSW, advising him of certain violations of proprietary school regulations and of our intent to deny a certificate for Richmond and to revoke the certificates for other locations. An informal fact-finding hearing was set for 14 February 1990, in Richmond.

4 January 1990--The staff received correspondence from the State Education Assistance authority indicating that Emergency Action was imposed to suspend CSW's participation in Virginia's student loan program.

Early January--The staff conducted an on-site visit to CSW-Richmond to determine number of students in program and to advise them of recent actions that had been taken.

5 January 1990--Ms. Buchanan conducted unannounced visits to the Holiday Inn-Fairfax and Westpark Inn, Mclean to determine number of students in program and to advise them of recent actions.

10 January 1990--A facsimile was received from Larry Dodds, President, ACCET, requesting Mr. Finley's presence on a special on-site visit to CSW-Washington campus.

11 January 1990--A letter from Judith Sturtz Karp, Attorney, informing Mr. Finley that CSW filed a petition for bankruptcy under Chapter 11 and that the state could not proceed with the planned revocation action was received.

22 January 1990--A letter was sent from Joan Murphy, Assistant Attorney General, Commonwealth of Virginia, to Judith S. Karp, Attorney, advising her that the Virginia Department of Education proceedings were excepted from the stay provisions of the bankruptcy petition and our actions would continue.

7 February 1990--The staff was interviewed by Robin Alvereze and LaRoss C. Campbell, Office of the Inspector General as part of their investigation of the CSW-Washington.

12 February 1990--A letter from Stephen Matthews, Attorney, advising us that the CSW agreed to voluntarily withdraw its application for a certificate to operate a proprietary school in Richmond was received.

12 February 1990--A letter was sent to Mr. Matthews asking him to remind CSW that it was also necessary to relinquish its certificate to operate the Fairfax locations.

16 February 1990--The Department received the certificate to operate for the Fairfax locations.

22 February 1990--A letter was sent to Mr. Matthews advising him that we agreed to the recent actions initiated by the CSW and that arrangements would be made in the near future to secure the necessary student records. Subsequently, the staff agreed to allow the records to be retained by the D.C. Education Licensure Commission and secured a verbal commitment to have access to Virginia student records as necessary. As of this writing, the Culinary School of Washington has requested release from liability under surety bonds held by the Commonwealth. Thus far, we have refused to release them until such time as we are reasonably certain that all of the students enrolled at the Virginia campuses have been graduated or their financial accounts settled or that the insurance company will honor claims retroactively.

Our experience with this institution has taught us the importance of continuing to be diligent in reviewing the activities of schools under our authority and to act quickly when problems become apparent.

PART II STATE REGULATION OF PROPRIETARY SCHOOLS

INTRODUCTION

The state Board of Education in the Commonwealth of Virginia began regulating certain proprietary schools following passage of statutes and regulations governing their operations in 1970. At that time, there were approximately 50-60 schools in operation. Today, the staff of the Proprietary School Service, Department of Education has the responsibility for monitoring the activities of 159 certified schools and branch campuses. Of that number, 39 are schools for handicapped children which offer regular academic programs for children who, primarily, are referred by public school divisions. These schools are, obviously, not included in this discussion. The remaining schools are classified by statute as "proprietary career schools" since they are preparing individuals for entry-level employment in non-licensed occupations or are providing training to upgrade an individual's previously learned occupational skills. Schools which train individuals for employment in licensed occupations are regulated by the state agency or board which issues the occupational license to graduates who meet the requirements for licensure and degree-granting institutions (proprietary or other) are regulated by the State Council for Higher Education in Virginia (see ATTACHMENT A). These institutions are not included in this discussion.

STAFF

The staff of the service, responsible for the day-to-day licensing and monitoring activities for the Board, is comprised of two professionals with a combined total of 17 years of experience in the positions and one administrative support position. Approximately 75% of the schools are visited each year by staff to insure that they are continuing to comply with applicable statutes and regulations. In addition, the schools are required to renew their certificates annually. This process is, primarily, a desk audit of information submitted; however, the staff has the prerogative to conduct an on-site visit to confirm the contents of the application. Files containing extensive information on all aspects of the school's operation are maintained for all certified schools. Copies of all application forms currently in use are found at ATTACHMENT B.

REGULATIONS

The current regulations governing the operation of schools have been in effect since 1970. The state Board of Education is in the process of adopting substantial revisions to those regulations for the first time since their initial adoption. The staff, in preparing the revisions to bring the regulations in line with current practices, took into consideration: 1) the many changes in the operation of schools since the initial adoption of the regulations; 2) problems and successes encountered in the state over the years; and, 3) information gleaned from our counterparts in other states regarding their regulations and practices. We feel that the proposed changes will provide the following primary benefits to both staff of the Department and the schools: 1) Clearer statements of the requirements for securing and expectations for maintaining certificates; 2) Provisions to help eliminate problem schools and operators from operating in the state; and, a Student Tuition Guaranty Fund, which will ultimately replace the current inadequate bonding requirements, to provide refunds to students who are attending an institution which unexpectedly closes without making provisions for students to complete their programs or fails to make refunds to those students. These regulations, for the first time, provide explicit guidelines for closing schools, including specific language concerning bankruptcy actions filed by schools, and specific guidelines for reporting financial information to the Board. Copies of the current regulations and the proposed revisions the Board will consider for adoption are found at ATTACHMENT C.

Although the primary focus of the statutes and regulations in Virginia is consumer protection, there are some areas intended to provide some quality controls for school operations such as administrators and faculty qualifications, student services provisions and updated requirements for programs offered. We have, for the most part, an excellent working relationship with the schools operating in Virginia. While we have not revoked or suspended a certificate during the time schools have been required to be certified, several, including the Culinary School of Washington, have closed under the threat of negative action.

ACCREDITED INSTITUTIONS

Currently there are 27 schools with 16 branch campuses certified in Virginia which hold accreditation by a regional or national agency recognized by the U.S. Department of Education. These schools comprise 35% of the career schools operating in the state; however, these institutions enroll more than 50% of the total number of students entering proprietary schools annually. The most obvious reason for this fact is the availability of financial aid for students who qualify. A secondary reason is the high visibility of these schools through their recruiting efforts which often are not available, for financial reasons, to smaller schools (e.g. direct mailings to large areas, television advertising, etc.). The staff has seen several small schools experience tremendous growth once they have gained accreditation.

The staff's relationship with the accrediting agencies has been, for the most part, excellent. AICS has been the most

71

cooperative agency accrediting schools in Virginia and most of the accredited schools in Virginia are AICS schools. Until recently, the Southern Association of Colleges and Schools (SACS) has been the least communicative. All of the agencies, with the exception of SACS, invites the staff to participate as observers with teams visiting the schools.

In addition, all of the accrediting agencies now include state proprietary school administrators on their mailing lists and provide us with the opportunity to comment on many facets of their operations including, but not limited to, changes in accrediting standards for schools. We also have the opportunity to participate in meetings and conferences sponsored for their member schools.

It is the staff's opinion that accrediting agencies need to be able: 1) to act more quickly to remove accreditation when warranted; 2) set measurable standards to determine when a school will and/or will not be accredited; and, 3) advise the public of both positive and adverse actions. Specific provisions must be enacted to prohibit schools which have been found not in compliance with the agencies' standards to continue to maintain accreditation during lengthy due process proceedings. We have witnessed instances where schools were clearly not in compliance with accrediting standards but continued to maintain accredited status for a year or more before final action was taken. All the time, the schools continued to enroll students and collect federal student financial aid monies.

Another positive step in this process would be to limit school owners' control of accrediting actions by placing it in the hands of an accrediting commission whose membership is from outside the membership of the association. Today's system of having school owners as the majority membership of accrediting commissions could by likened to the inmates guarding the prisons.

RELATIONS WITH USDE

Until approximately 18 months ago, the states had little to no contact with officials of the U.S. Department of Education. From June, 1989, however, the complete opposite has occurred. Through the combined efforts of officials of the National Association of State Administrators and Supervisors of Private Schools (NASASPS) and USDE, the lines of communication have been opened through participation in conferences and a series of monthly telephone conferences calls originating in the Eligibility and Certification Branch. These conference calls cover a wide variety of topics determined by activities of USDE and the desires of state administrators. The Department canvasses the regularly participating states prior to the calls to get ideas for agenda topics.

This has enabled all interested parties to receive answers to questions regarding both USDE and state operations and to put voices (at least) with names. A copy of a sample agenda is found at ATTACHMENT D.

Based on the limited, but growing, knowledge of the operation of the Federal student aid programs, it appears that adequate oversight is deficient due to staffing problems within USDE and to the large number of participants in the program. As we learn more about the federal bureaucracy, it also appears that the regulatory process is extremely cumbersome and complicated. Procedures should be implemented which would allow the staff to act more quickly when problems occur and to provide increased input from the states. As far as we can determine, staff of USDE is making every effort to adequately administer the programs.

It is our opinion that the current three-step eligibility and certification process is a good one; however, some changes in accrediting procedures as previously mentioned and greater input from the state would enhance the process.

NASASPS

It is our understanding that your committee has already received information on the National Association of State Administrators and Supervisors of Private Schools (NASASPS). The association is comprised of state government employees who have the responsibility for the approval and monitoring of the activities of proprietary schools. Although the objectives of the association have changed somewhat since its founding in the early 1970s, it still serves as a primary information and idea sharing forum. Each year, the Association holds a conference at which topics of interest to state administrators are discussed. Information is drawn from speakers from state and federal agencies, accrediting agencies and, at times, the private business sector. For the first time in a number of years, staff members from USDE participated in the 1989 conference. In 1990, more than a dozen USDE staff people attended and participated in the conference. A listing of conference participants and a program from the 1990 conference is found at ATTACHMENT E.

In January, 1990, an attempt was made to revive a loosely-knit organization known as TRIAD. At some point prior to my tenure in this position this organization was organized to consider and resolve concerns about proprietary schools in the country. The organization was comprised of members coming from state government, accrediting agencies, and the federal government. Due to unforseen problems at the federal level, USDE was unable to participate in the January meeting; however, state officials and accrediting agency representatives met to address the state of proprietary education in the country. A copy of the published report of the meeting is found at ATTACHMENT F.

CLOSING AND RECOMMENDATIONS

It is my opinion that the regulation of proprietary schools and the Federal student aid programs, in general, is not in as bad a shape as some individuals would have the public believe. Of course, there is always room for improvement and steps are being taken across the country to improve the process. Witness the revision of existing statues and regulations at the state level and the beefing up standards by some accrediting agencies.

In closing, we would like to put forth the following recommendations to improve the total process:

1. At the state level, we need to continue to seek ways to improve and strengthen the regulatory process through the exchange of information and ideas. The forum provided by NASASPS is an excellent way of doing this and continued input by the federal government and the accrediting agencies is essential.

2. The federal student aid programs should be restructured to deemphasize loans to some students in proprietary schools. Perhaps some of the money in the Stafford Loan program could be diverted to the College Work Study Program for students enrolled in occupational training programs. Students in proprietary schools who are generally under educated and unaccustomed to working would be able to gain valuable work experience and insight into the world of work.

3. Revise the requirements for continued eligibility and certification to place limits on the percentage of total income school owners can derive from federal student financial aid sources. If, as we have seen from school collapses around the country including Superior Training Services, schools are totally dependent on student aid for income, any change in the disbursement procedures or amount of funding available immediately puts a school on shaky financial ground.

4. Revise the regulations governing the student aid programs to require that owners return a minimum percentage of their profits into the institution to improve effectiveness and efficiency.

5. Revise the requirements for eligibility and certification to require that USDE investigate all holdings and corporate interests of proprietary school owners to attempt to avoid methods owners can use to channel monies to other companies for their own gain. For example, as in the ACT Travel School scenario, an owner can form a separate company of which he/she is the sole owner for the purpose of purchasing or building property. He/She then rents from the company and, in essence, pays rent to him/herself.

6. Provide USDE sufficient staff to conduct on-site audits or reviews of participating schools during each eligibility cycle at the institution's expense. If staff cannot be hired, the audits or reviews could be done on a contractual basis with eligible reviewers trained by staff of USDE.

7. Establish and enforce criminal penalties against schools which violate student aid program guidelines and act quickly when violations are found.

8. Require accrediting agencies to establish accrediting commissions devoid of school owners or officials if they seek continued recognition by the Secretary of Education. The members of the association (i.e. the schools) could still set the standards for accreditation but the determination regarding accredited status would not be made by the schools.

9. Amend existing bankruptcy statutes to provide protection for students who are attending schools which enter bankruptcy actions to avoid fulfilling their obligations to students and creditors.

Again, I appreciate having the opportunity to provide this information to the committee and hope that it will be of value. I would like to acknowledge the contribution of my assistant, Ms. M. Carol Buchanan, Supervisor, Proprietary School Service, in the preparation of this report and the actions against the Culinary School of Washington, Ltd. It was she who did most of the paperwork and all of the on-site visits in the CSW situation.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 57

STATEMENT
OF
RICHARD M. WEBSTER
STAFF INVESTIGATOR
FOR
THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

On August 23, 1990 I conducted a review of the following newspaper articles concerning allegations of misappropriation of funds from Southeastern University in Washington, D.C.

1). September 9, 1983 Washington Post, Page B6, "University Official Fired After Purchasing Probe."

2). January 5, 1984, Washington Post, "Southeastern University Sues Former Business Manager Over Funds."

3). July 30, 1985, Washington Post, "Ex-College Official Pleads Guilty."

The articles disclosed events occurring in 1981 concerning an audit of Southeastern University funds that showed $100,000 of university funds had been channeled to the Culinary School of Washington, of which the then president of the university, Barkev Kibarian, was a trustee. The university fired the business manager who subsequently sued the school. In depositions filed in that suit, university trustees accused the business manager of misappropriating the funds. The business manager contended she had been fired without a hearing and that she never knew certain purchase orders were being used to finance the cooking school. Kibarian was forced to resign after the audit report but was not charged with criminal wrongdoing, according to the articles.

On August 24, 1990, a review of court records on file with the District of Columbia Superior Court disclosed the following: On November 4, 1980, the Washington D.C. CPA firm of Wayne Kendrick & Company ("the firm") published a special audit report to the Southeastern University Board of Trustees for the fiscal years ending July 31, 1978 and July 31, 1979. This examination disclosed a pervasive use of university funds, facilities, equipment, and personnel for the benefit of Culinary School of Washington, Ltd. ("the culinary school"). (Exhibit 1). All expenditures were made by checks signed by Dr. Barkev Kibarian and one other University employee. These expenditures include those for advertising in the Washington Post and Washington Star, printing, personnel costs, telephone answering services, testbook purchases, rental of facilities at Mount Vernon College, and postage totalling over $104,000.

ADVERTISING and RECRUITING

The firms review of the university's expenditures for advertising and recruiting disclosed that an accounting adjustment was made in February 1980 for payments to a local advertising agency for publications that would be more appropriate for the culinary school than for the university, according to the report. The expenditures were paid by the university for culinary school advertisements in the Washington Star and the Washington Post were $11,614.30 and $3,265.74 respectively. The total amount of the advertising agency charges of the culinary school paid for by the university was $40,426.89.

PRINTING

The firm examined the invoices of a local printing company used by the university. They determined that payments by the university for culinary school expenses totaled over $27,000 and, at the time, an additional $14,000 of culinary school expenses remained unpaid in the university's account at the printing company.

SALARIES OF UNIVERSITY EMPLOYEES

The firm determined that proper accounting procedures were not followed for the payment of salaries to university employees. One individual, Robert L. Green, had a file which contained neither salary nor job responsibilities information. As a test to verify payroll, the firm controlled the disbursement of checks for the pay period ending March 1, 1980. They reported that in prior pay periods Robert L. Green was regularly paid a substantially greater salary than any of he other instructors, however, he did not appear on the controlled payroll or on subsequent payrolls. There were no personnel records for Green and no explanation for his apparent dismissal. There were no record of Green having taught classes at the university. At the time the firm determined Green was an instructor at the culinary school through a telephone call to the culinary school. The firm uncovered other evidence which confirmed that Green was an instructor at the culinary school. They reviewed records at the printing company which indicated that documents were printed inviting prospective students for a "cruise up the Potomac on the 87 foot luxury motor yacht Strathbelle to meet Master Chef Bob Green, Director of Instruction of the college." Also, the university paid for business cards for Green that indicated he was vice president for academic affairs at the culinary school on October 4, 1979.

OTHER CULINARY EXPENSES CHARGED TO THE UNIVERSITY

The university purchased 60 copies of the textbook, The Professional Chef, which was promoted in culinary school literature as being their primary textbook for classes.

The university used a mailing service and maintained a computerized mailing list. One individual known to the firm called the university to request a university catalog. This individual received culinary school literature instead of a university catalog.

The firm determined other benefits received by the culinary school without reimbursement to the university. The exact nature of these benefits could not be determined due to the lack of proper documentation of university expenses.

On August 29, 1990, a Southeastern University official related that in 1981, an Assistant U.S. Attorney from Alexandria, Virginia wanted to prosecute Kibarian for misappropriating university funds but university trustees were unwilling. Kibarian allegedly was in possession of information concerning improprieties of university officials of that time. Kibarian was not prosecuted and was allowed to resign from the university and allegedly given severance pay along with the title to a university automobile. Officials contacted at the Washington, D.C., U.S. Attorney's office were not able to assist in this matter.

~~July~~ Jan. 5, 1984

Southeastern U. Sues Former Business Manager Over Funds

By Ed Bruske
Washington Post Staff Writer

Southeastern University filed a civil suit yesterday claiming $2.5 million in damages against its former business manager, John Curry, contending that Curry and his wife helped defraud the university of more than $500,000 through several local companies in which they were secretly involved.

Curry, reached yesterday at his home in Potomac, declined to comment on the suit.

According to papers filed by the university in D.C. Superior Court, Curry paid hundreds of thousands of dollars in university funds to janitorial, furniture and security firms in which he and his wife, Annette, had a hidden financial interest.

The suit claims that contracts with the firms were carried out over a three-year period beginning in 1981 and that Curry, his wife and officers of the various firms "fraudulently induced plaintiff to pay duplicate, repetitive, and grossly inflated" sums for the services.

Curry was fired in September after an audit raised questions about the school's purchasing practices. Curry's attorney at the time said that Curry was being made "the scapegoat" for "monumental" management and accounting problems Curry inherited when he took the job.

Last year, a Superior Court jury awarded $801,000 to the University's former comptroller, Joyce Jolo-Balfour, who claimed she was wrongfully fired after trustees accused her of misappropriating $100,000.

Former president Barbey Kiltorum resigned after an audit showed that the funds had been used for the Culinary School of Washington, of which he is a trustee.

July 30, 1985

Ex-College Official Pleads Guilty

Southeastern U. Overcharged

By Lawrence Feinberg
Washington Post Staff Writer

John J. Curry, a former business manager of Southeastern University in the District, pleaded guilty yesterday to taking part in a scheme to defraud the university by placing about $900,000 in inflated contracts with a business associate and receiving $80,000 in kickbacks.

Among the contracts, Curry acknowledged here in U.S. District Court, was a pact for cleaning services that cost the university $13,292 a month for work that a student cleaning crew was paid $4,000 monthly to perform.

In a court statement, Assistant U.S. Attorney Steven C. Tabackman said the contracts, made with companies controlled by Gerald Schell, formerly of Upperville, Va., also overcharged the university for books, office furniture and maintenance supplies.

Curry, 53, of Potomac, pleaded guilty to interstate transportation of property obtained by fraud and income tax evasion, charges that carry sentences of up to 15 years in prison and $20,000 in fines. His wife, Annette Floris Curry, who was an incorporator of the firm that received the cleaning contract, pleaded guilty to subscribing to a false income tax return. That charge carries a maximum penalty of three years in prison and a $5,000 fine. U.S. District Judge John Garrett Penn set sentencing for Sept. 11.

Schell, who had been convicted of mail fraud in 1974 in connection with a home improvement scheme in Pittsburgh, currently is in federal prison. His probation was revoked by a judge in late March.

According to information filed in court here yesterday, the fraud scheme at Southeastern University continued from early 1982 to September 1983, when it was discovered by university auditors and Curry was fired.

In 1981 the university fired another business manager, Joyce Jolo-Balfour, whom the trustees accused of misappropriating funds. Jolo-Balfour filed suit against the university in connection with the firing and was awarded $801,000 by a Superior Court jury.

According to depositions from school officials filed in that trial, an audit report revealed that university funds had been channeled to the Culinary School of Washington, of which the then-president of the university, Barbey Kiltoran, was a trustee. Kiltoran was forced to resign after the audit report, the depositions said, but has not been charged with criminal wrongdoing.

Yesterday U.S. Attorney Joseph E. diGenova praised the current president of Southeastern, Robert Higgins, for "fully cooperating with our investigations."

"He is doing everything humanly possible to clean house," diGenova said.

The university, which enrolls about 1,000 students mainly in business courses taught at night, was founded by the YMCA in 1879. It is located at 501 I St. SW, and operates as an independent nonprofit corporation.

Yesterday Tabackman said in court that the government also had evidence that Curry arranged for a contract for security guards at Southeastern with a firm that he and his wife formed with Jack Vincent, a D.C. police sergeant. The school spent $103,000 for the firm's services in 1982 and 1983, Tabackman said, without Curry disclosing his financial interest.

Tabackman said Vincent has been reprimanded by police for holding a second job, but said he was granted immunity from prosecution in return for promising to testify against the Currys.

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Sept 9, 1983

B6 Friday, September 9, 1983 THE WASHINGTON POST

University Official Fired After Purchasing Probe

By Karlyn Barker
Washington Post Staff Writer

The business manager of Southeastern University in the District has been fired after questions were raised about university purchasing practices, including alleged "substantial" overpayment for janitorial supplies and office furniture, the university and its attorney said yesterday.

The university's board of trustees put the business manager, John Curry, on administrative leave last week after a new auditing firm it had retained brought questionable purchasing practices to its attention in July, according to Dr. W. Robert Higgins, a university official. Yesterday the school sent Curry a letter telling him he was being fired because of "adverse publicity," Higgins said.

Curry, formerly an adjunct professor at the university until he became its business manager two years ago, is responsible for approving all the schools purchases, according to James Brent Clark, an attorney hired to investigate the matters raised by the audit. But Clark added that he does not know "what involvement Mr. Curry may have had, if any" in the overpayments found by the audit.

"The indication is that the overpricing is substantial," said Clark, who said overpayments for office maintenance materials, furniture and other goods purchased by the school may have been taking place over a period of "some months" and perhaps as long as a year.

The audit is still continuing, he said.

Curry, who lives in Potomac, said he had not been notified of his firing. He declined to comment on any allegations about his actions, pending consultation with his lawyer.

Accounts of Southeastern's overpayments were first reported Wednesday by WJLA-TV, Channel 7, which said the university's audit showed it was paying too much for janitorial supplies, books and other products, including $96 for a case of hand soap that normally costs about $36.

The television report said a major supplier of the goods were four companies owned by Gerald Schall of Middleburg, Va. Clark said he is investigating spending for a range of items, including but not limited to those in the television account.

Schall could not be reached for comment yesterday.

Last night, the station reported that Southeastern has also been spending $90,000 a year to hire security guards from a firm owned by Curry and a District police sergeant, Jack Vincent.

The action marks the second incident in which an employe of the university, a small, private business school located in Southwest Washington, has been ousted following allegations of questionable handling of university funds.

In 1981, the university fired its controller, Joyce Jobe-Balfour, who subsequently sued the school.

In depositions filed in that suit, university officials said Jobe-Balfour was fired after an audit showed that thousands of dollars in university funds had gone to a Washington cooking school of which the then-president of Southeastern was a trustee. The president, Barkev Kabarian, resigned after the audit, the depositions said.

Jobe-Balfour contended she had been fired without a hearing and that she never knew certain purchase orders were being used to finance the cooking school.

A D.C. Superior Court jury earlier this year awarded Jobe-Balfour $601,000. Southeastern is appealing the case.

Founded in 1879 by the Young Men's Christian Association, Southeastern University has an enrollment of about 1,500. It is classified as a tax-exempt education foundation but receives no federal funds except for government loans made to some of its students, according to Higgins.

The school last year dropped its athletic program and laid off some employes, after pleading financial hardship because of a declining enrollment.

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EXHIBIT D

WAYNE KENDRICK & COMPANY
CERTIFIED PUBLIC ACCOUNTANTS
1200 FIFTEENTH STREET, N W
WASHINGTON D C 20005

SOUTHEASTERN UNIVERSITY

SPECIAL AUDIT REPORT

PART I - INTRODUCTION AND SUMMARY

November 4, 1980

Board of Trustees
Southeastern University
Washington, D. C.

Gentlemen:

In the course of our examination of the accounts and records of Southeastern University for the fiscal years ended July 31, 1978, and July 31, 1979, certain matters were brought to your attention in a preliminary report dated July 31, 1980. At your request, our audit staff examined these matters in greater detail in order to determine if there would be a material effect on the financial statements of the university. This detailed examination has disclosed a pervasive use of university funds, facilities, equipment, and personnel for the benefit of Culinary School of Washington, Ltd., hereinafter referred to as the culinary school. As detailed elsewhere in this report, the president of the culinary school is Mary Ann Kibarian and one of its trustees is Dr. Barkev Kibarian. We have documented substantial expenditures of university funds for the benefit of the culinary school; however, it would be difficult and time consuming to document the benefits derived by the culinary school from expenditures for travel and restaurant charges and from the use of the university's copying equipment, postage machine, telephone facilities, mailing services, etc., and the time spent by university personnel on culinary school matters.

A summary of the documented expenditures is shown below. All expenditures were made by checks signed by Dr. Barkev Kibarian and Joyce Jobe-Balfour. These expenditures as well as possible other costs incurred by the university for the benefit of the culinary school are discussed in greater detail in part II of this report.

The expenditures by the university for the benefit of the culinary

(Continued)

school which we have documented are:

Advertising - Raider Advertising Agency, Inc.	$ 40,426.80
Advertising - The Washington Star	11,614.38
Advertising - The Washington Post	3,265.74
Printing - F. S. Enterprises, Inc. (An additional $14,389.36 has been charged to the university for culinary school printing, but has not been paid)	27,031.04
Personnel Costs - Robert Green	11,154.00
Telephone Answering Service - TASCO	439.65
Textbook Purchases - Various	1,689.98
Rental of Facilities - Mount Vernon College	8,000.00
Postage	536.85
TOTAL	$ 104,158.44

It should be noted that the above total does not include the $14,389.36 still owed to F. S. Enterprises, Inc. If this were included the total would be $118,547.80.

The amount of our audit fee which is related entirely to the matters covered in this report is $14,000.00.

The following categories of expenditures, which are discussed in greater detail in part II of this report, may have included expenses incurred by the culinary school but are difficult to document:

Copying Facilities and Supplies
Telephone Charges for Long Distance Calls
Postage Machine Use
Mailing Services
Restaurant and Travel Charges
Personnel Costs - Other Than Robert Green
Furniture and Equipment Purchases

PART II - PROCEDURES AND FINDINGS

From various documents obtained by our audit staff, the following is known about the culinary school. Originally, as determined from invoices paid by the university, the name was Culinary College of Washington, Ltd., in May, 1978.[1] In October, 1979, the name was changed to Culinary School of Washington, Ltd.[2] and its address changed from 1200 - 18th Street,

(Continued)

N. W., Suite 312, Washington, D. C. 20036 to 4470 MacArthur Boulevard, N. W., Washington, D. C. 20007.[3] The former address is the same address as Raider Advertising Agency, Inc. which handled all advertising for the university and the culinary school. All services provided by Raider Advertising Agency, Inc. to the culinary school were billed to and paid by the university from June, 1979, to July, 1980.[4] From various literature printed for the culinary school, it was determined that its president is Mary Ann Kibarian and Dr. Barkev Kibarian is a trustee.

Our review of the university's expenditures for advertising and recruiting during the fiscal year ended July 31, 1980, disclosed that an accounting adjustment was made February 29, 1980, which transferred 50% of the balance of the advertising account to the recruitment account. A large part of the adjustment was for payments to Raider Advertising Agency, Inc. (hereinafter referred to as Raider) but did not comprise all payments to Raider in the advertising account. In determining if the payments to Raider were properly recorded, it was found that none of these payments had adequate supporting documentation. Review of the invoices paid indicated that some advertising appeared in publications that would be more appropriate for the culinary school than for the university; and, in addition, an interdepartmental memorandum from Mary Ann Guyol, director of public relations, to Joyce Jobe-Balfour, director of administration, indicates that all of the radio and television spot announcements for October, 1979, were for the culinary school and were paid for by checks dated December 4, 1979, for $5,892.96 and January 29, 1980, for the balance of $6,000.00.

In order to substantiate that services paid for by the university were for university purposes, it was necessary to review the records at the advertising agency. Each month's invoice for the period of May, 1978, to July, 1980, was examined with Mr. Raider. As to newspaper commissions, Mr. Raider indicated whether the advertisements placed were for the culinary school or for the university. Raider charges only commission on advertising placed in The Washington Post and The Washington Star newspapers and the bills from the newspapers are paid directly by the university. It was apparent that the university was paying commissions to Raider and paying the newspapers for advertising for the culinary school. Copies of the newspaper invoices were traced to the Raider invoices

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and reviewed for culinary school expenses. All other newspaper advertising shown on these invoices includes both commission and cost of the advertisement. Artwork for newspaper advertisements was tied into the newspaper charges using the dates of the artwork and the dates of the newspaper advertisements.

When reviewing newspaper advertising with Mr. Raider, it was difficult to review the advertisements in The Washington Post and The Washington Star because of the lack of a clipping file. Our auditing staff felt it would be more effective to review the advertisements using microfilm located at a library than searching through the newspaper stacks at Raider. All of The Washington Post advertisements and some of The Washington Star advertisements were reviewed in this manner. The expenditures paid by the university for culinary school advertisements in The Washington Star and The Washington Post newspapers are $11,614.30 and $3,265.74, respectively.

In order to substantiate radio and television charges by Raider, invoices from the stations were obtained. These listed the date, time, and description of the announcement that was placed. Raider charges came directly from these invoices. Any production charges for radio and television announcements were differentiated between the culinary school and the university by Mr. Raider. Each invoice from Raider was then separated between costs for the culinary school and the university. Copies of the payments by the university were traced to all the invoices. The total amount of Raider charges for the culinary school paid for by the university is $40,426.89.

In reviewing expenditures charged to printing expense on the records of the university, some expenditures for services from P. S. Enterprises, Inc. (hereinafter referred to as P. S. Enterprises) appeared to be questionable. These expenditures were reported in our preliminary report dated July 31, 1980, in Exhibit 9.

In order to investigate all services billed by P. S. Enterprises to the university, it was requested that P. S. Enterprises indicate on copies of the invoices whether services performed were for the university or for the culinary

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school. When the copies of the invoices were received, all payments to P. S. Enterprises by the university were traced to each invoice. After reviewing the invoices, several required that the actual work be inspected to verify what the charges were for. In addition to inspecting job jackets at P. S. Enterprises the account history of Southeastern University was reviewed. Even though work described in all invoices indicating the culinary school was reviewed, copies of the work are not attached to all of these invoices. In most cases, work was reordered and the original job jacket was destroyed to create a new job jacket. With other invoices, the work observed was metal printing plates which were not suitable for copying. All other invoices that did not have a job jacket to examine were assumed to be chargeable to the university whether or not indications on the invoices were for the culinary school.[13] In tracing invoices for culinary school work to the university's account at P. S. Enterprises, it was determined that some invoices were transferred to Dr. Kibarian's account on P. S. Enterprises' records. Because the university is tax exempt, the amounts of the invoices being transferred did not include any sales tax. We have not determined if the culinary school is tax exempt.

From this examination of P. S. Enterprises' invoices it has been determined that payments by the university for culinary school expenses total $27,031.94, and that an additional $14,359.36 of culinary school expenses remain unpaid in the university's account at P. S. Enterprises.

Proper accounting procedures were not followed for the payment of salaries to university employees as indicated in our preliminary report dated July 31, 1950. Not all individuals receiving paychecks had adequate information on salary status or job responsibilities on file at the university. One individual, Robert L. Green, had a file which contained neither salary nor job responsibilities information. His salary was being charged to instructor's expense but was substantially higher than other instructors and he taught no classes at the university. As noted in the preliminary report, Mr. Green was taken off the payroll that was controlled by our audit staff and no satisfactory explanation was given for the apparent dismissal. At that time it was determined that Green was an instructor at the culinary school by a telephone call to the culinary school. Since then other evidence has confirmed that Mr. Green is an instructor at the

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culinary school. From printing done by P. S. Enterprises on September 21, 1979, prospective students were invited for a "cruise up the Potomac river on the 87-foot luxury motor yacht Strathbelle to meet Master Chef Bob Green, Director of Instruction of the college." Also, the university paid for business cards for Robert Green that indicated he was "vice president for academic affairs" at the culinary school on October 4, 1979.[5] It was at this time that Mr. Green was receiving a salary from the university. The total salary, consultant fees, employer social security taxes, unemployment taxes, and group hospitalization paid by the university for Mr. Green was $11,154.09.

From reviewing the expense accounts of Southeastern University and printing done by P. S. Enterprises Inc., payments to Mount Vernon College became questionable. From culinary school publications, printed May 18, 1979, it is learned that Mount Vernon College is "the location of our summer campus and working laboratory."[6] The university made payments of $3,000.00 on July 12, 1979, and $5,000.00 on September 21, 1979, to Mount Vernon College. A copy of the invoice received directly from Mount Vernon College, states that the payments were for rental of the following room accomodations for the period June 26 to August 15, 1979, to the culinary school: kitchen facilities, post hall, dining room, and classroom numbered 222.

Additional payments made by the university for the culinary school for telephone answering services, textbook purchases, and postage were detailed in the preliminary report. The total paid for telephone answering services from TASCO is $438.65. Textbooks purchased by the university which apparently were not for university courses and were not sold by the university bookstore total $1,659.98. One title, The Professional Chef, of which the university purchased 60 copies for $1,037.40, was promoted in culinary school literature as being the primary textbook for classes and would be issued free to students enrolling during specific periods. The purchase of textbooks was made June and September, 1979, and the offer was made by literature printed in September and November, 1979, and March, 1980.[7] Also stated in the preliminary report was the cost of postage used by Dr. Han Shil Koh for culinary school literature as observed by our audit staff during the period of January 25 to February 6, 1980. The amount of postage recorded during this period is $536.85.

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Additional expenses paid by the university for the culinary school have been investigated. According to culinary school literature, prospective students were invited for a cruise up the Potomac leaving the Gangplank Marina on October 6, 1979. In reviewing the university's recruitment account, it was determined that two payments were made to the Gangplank Marina; the first on August 8, 1979, for $200.00, described on the check as "deposit for cruise," and the second on October 5, 1979, for $420.00, described on the check and purchase order signed by Dr. Kibarian as "recruiting for graduate school." No other documentation was located for these payments.

Other areas investigated by our auditing staff revealed many benefits received by the culinary school without reimbursement to the university; however, unlike the expenses already presented, these expenses cannot be determined exactly. Those areas taken advantage of by the culinary school at the university's expense are copying facilities and supplies, telephone use for long distance calls, undocumented postage machine use, use of mailing services, charges made to staff meetings and travel, and use of university personnel.

From discussions with university personnel, it became apparent that the copying facilities, telephones, and postage machine at the university were used extensively for culinary school business. The use of these items and thus the related expense attributable to the culinary school cannot be documented due to lack of any records indicating details of their use. Postage machine use was documented for a short period as mentioned; however, it appears from discussions with university personnel and casual observations, that large mailings were made before and after the observation period. Based on the quantity of culinary school envelopes ordered from P. S. Enterprises, 33,000, and the type used in the observed mailings, an estimate for postage used for the culinary school is $1,950.00.

The university uses a mailing service to mail large quantities of literature. One company maintains a computerized mailing list in order to print labels for these mailings. In one instance, culinary school literature was received by an individual known to our auditing staff. The label was computer generated, and information on the label came from a telephone request for a

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Southeastern University catalog which was never received. Many invoices from P. S. Enterprises indicated that delivery of culinary school materials was made to these mailing services.[8] University mailing service expenditures chargeable to the culinary school include computer mailing list maintenance, label production, and costs associated with inserting literature in envelopes.

Staff meeting and travel expenses paid by the university frequently lacked any documentation indicating the purpose of the expenditure or the individuals in attendance. In culinary school material printed by P. S. Enterprises it is stated that the admission interview will "take place at a fine Washington restaurant" and the prospective student will "meet the chef, see the layout of the kitchen, observe the service..."[9] It is apparent that expenditures not documented as being for university business could be for the culinary school, especially expenses incurred at the Channel Inn restaurant of which a related individual is listed as a trustee on culinary school literature.[10]

It has been shown that Robert L. Green received payments from the university while performing no commensurate service therefor. Examination of culinary school printing invoices and literature reveals that several other university staff members are associated with the culinary school. Mary Ann Guyol, director of public relations, received many deliveries of culinary school printing at the university as evidenced by shipping invoices at P. S. Enterprises. Also, as evidenced by memoranda from Guyol to Dr. Kibarian, she arranged some of the promotion for the culinary school. Guyol, in a memorandum to Joyce Jobe-Balfour, director of administration, indicated that all television and radio spots listed on the October, 1979, invoice from Raider were for the culinary school. This invoice was paid in full by the university in disregard of the memorandum. Joseph M. Tuchman receives travel reimbursement for expenses incurred in visiting area high schools and other organizations purportedly for promoting Southeastern University. Tuchman has ordered printing to be done for the culinary school,[11] and has business cards printed by P. S. Enterprises indicating that he is a counselor for the culinary school.[12] Dr. Han Shil Koh, far eastern student advisor, as previously mentioned, spent

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considerable time, both observed and indicated from discussions with other university personnel, mailing large quantities of culinary school literature using the university's postage machine. Dr. Kon also spent some time copying literature for the culinary school. Other individuals who are paid as instructors by the university are associated with the culinary school. Professors Mohammed M. Safa, Sohaila Safa, and Dr. Alfred Miller have business cards indicating that they are associated with the culinary school. At the time that business cards for Mohammed Safa were printed, the university was paying two paychecks to him, one as administrative staff member and the other as a graduate instructor. In addition, according to Professor James E. Brisbane, he has taught an accounting course for nonaccountants at the culinary school located on MacArthur Boulevard but received no payment from the culinary school.

An additional area of expenditures by the university that could be taken advantage of by the culinary school is the purchase of furniture and equipment. Due to the lack of any fixed asset control there is no physical inventory of assets located at the university. It is possible that assets purchased by the university are presently being used by the culinary school.

Throughout our examination of the financial records of Southeastern University, unsupported expenditures are uncovered. In order to locate and to document all these payments would be time consuming; therefore, our investigation was limited to areas determined to have a significant impact on the financial statements. Since all expenditures by the university cannot be investigated in detail, many expenses paid by the university but not incurred for university purposes will never be determined. These expenses will continue to be found subsequent to this report.

The completion of our audit for the fiscal year ended July 31, 1979, has been delayed pending the conclusion of this examination of unsupported expenses; however, the audit is substantially completed and a report will be issued soon. Due to the fact that the amount of expenses paid which were not related to university business is material, it should be disclosed in the financial statements for the fiscal years ended July 31, 1979, and July 31, 1980.

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FOOTNOTES

1 F. S. Enterprises, Inc. Invoice #144083, 5/23/78

2 *Ibid.* #165849, 10/4/79; #165994, 10/12/79

3 *Ibid.* #165996, 10/12/79; #168541, 11/12/79

4 Reider Advertising Agency, Inc., June, 1979; July, 1980

5 F. S. Enterprises, Inc. Invoice #165578, 9/21/79; #165849, 10/4/79

6 *Ibid.* #161150, 5/18/79

7 *Ibid.* #165325, 9/11/79; #169705, 11/26/79; #171263, 3/14/80

8 *Ibid.* #144083, 5/23/78 - ADW; #171176, 3/11/80 - Computer Data;
#176775, 6/10/80 - Computer Data

9 *Ibid.* #165326, 9/11/79

10 *Ibid.* #145450, 6/22/78

11 *Ibid.* #168366, 10/31/79; #172590, 3/28/80

12 *Ibid.* #173458, 3/10/80

13 *Ibid.* #152682, 12/7/78; #172024, 2/21/80

Respectfully submitted,

WAYNE KENDRICK & COMPANY

By Virginia McKenney
Certified Public Accountant

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 58

Affadavit of Sharon E. Marburg

Presented to the Senate Permanent Subcommittee

Being duly sworn in accordance with the law, I, Sharon Marburg, of Washington, DC depose, state and represent as follows:

I was briefly employed with the Culinary School of Washington (CSW) in the fall of 1984 as a French teacher and have been asked by the subcommittee staff to give testimony of my experience with the school. Because I had endeavored to expose the school's fraudulent practices immediately following the time of my employment, I am happy to see that this school was finally called on the carpet and shut down. Also, I am pleased to be able to contribute to the subcommittee's investigation of student loan default because I was fortunate enough to receive a GSL during my three years of law school: without the GSL, I probably would not have been able to afford law school.

I feel especially qualified to submit testimony on this matter for several reasons:

1. I have had extensive experience in the restaurant business;
2. I studied Food Science at the University of Wisconsin in Madison as an undergraduate;
3. I am a graduate of a trade school (Katharine Gibbs);
4. I have attended four institutions of higher learning: Mount Holyoke College, The University of Wisconsin/Madison, New York University's Semester in Paris, and the Washington College of Law;
5. (subsequent to my employment at CSW), I have had five years of teaching experience training attorneys and other professionals on the LEXIS/NEXIS database system.

After what I witnessed at CSW, I am appalled that the owners, Mr. and Mrs. Kibarian are not being prosecuted for criminal fraud.

In the fall of 1984, I was employed at a think tank as a secretary and was looking to change jobs. I saw an ad in the Post for an administrative assistant position at CSW. When I went for the interview, Mrs. Kibarian looked at my resume and saw that I was a French major and asked if I wanted to teach French. I was aghast since I had no teaching qualifications. In the same breath, Mrs. Kibarian said that there was an opening for the position of "Dean of the School," and thought I might qualify! Because I knew I had no qualifications for the position, I took the part-time evening

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job as the French teacher just for the experience.

I was given woefully inadequate materials with which to work and was given only one copy of such materials; I ended up having to design and create my own materials as well as photocopy them at my own expense.

I was not given any course curriculum, outline, syllabus or any sort of guidance whatsoever as to how to teach the course.

Most outrageous were the facilities and primitive conditions under which I was supposed to teach and the students were supposed to learn. I had to meet my class in local taverns such as Bojangles and Abbey Road, where music was blasting, lighting was inadequate, and the smell of stale beer, smoke and vomit permeated the room. The class location kept changing but never for the better!

Equally disruptive to my teaching were the constant phone calls I received in the middle of teaching a class; the calls were from the administration who called to ask me for attendance. This was not only annoying but also robbed my students of class time. Once I notified Mrs. Kibarian that I preferred not to have these calls, she told me to tell her staff to stop calling me (isn't that her job?) However, the calls kept coming despite my request that they cease.

When I told Mrs. Kibarian about the poor attendance of my class, she told me to call the students at home to find out why they were not in class. I told her that that was not my job wherein she replied that I would have more impact on my students than she would have had. I refused to heed her demand since she refused to compensate me for any time I spent on preparation outside of the one and a half hour of class at the rate of $8.50 and hour. The attrition rate of my class increased rapidly. I was never formally notified of any withdrawals from the school but only heard about them from the other students.

In fact, half of each class was devoted to the students complaining about all the things wrong with the program which included broken promises at best and serious threats as the worst. One student told me that if he took the Kibarians to court for a refund, the Kibarians threatened him by telling him that he would never work as a cook in Washington.

The students told me that the facilities were underequipped and roach-infested. They also said that the food they worked with was often rancid, moldy, and adulterated.

One students' fee was supposed to include textbooks, a uniform and knives. They had only one book and the chef instructors told my students that the book was not to be consulted since it was highly inadequate. One student informed me that he never received his pants and had to go out and purchase his own pair.

One story I vividly remember was of a young woman who came from Tennessee because both she and her parents were assured that she would be able to receive free tuition and housing if she worked full-time in the purchasing department for the school. She arrived only to find that the Kibarians had placed her in the home of one of their chefs whom they had bailed out of jail on drug charges. The chef charged this young woman $300 a month for rent and she was never reimbursed by the Kibarians. She was not compensated for overtime and told the Kibarians she would take them to court. They, in turn, fired her and urged the chef/landlord to throw her out of his house which he did.

I felt so badly for the students who remained and asked them to document their complaints which I forwarded to the Educational Institutional Licensure Commission. Although I had absolutely nothing to gain by getting involved in alerting the authorities about the school's corrupt and fraudulent practices, I couldn't bear to see my students being victimized and shuddered at the thought of how many other people could be duped by the Kibarians. The students were for the most part naive about the real world and not too highly educated -- perfect prey! It was absurd to me to be teaching these students French when it would have been more beneficial for them to master English first. They were unable to really grasp or retain the simple assignments I gave them.

The Kibarians never attended my class and never asked me to turn in exams or assignments.

Once I went to work for LEXIS/NEXIS, I ran a search in NEXIS on Dr. Kibarian only to find some unsavory articles on his misappropriation of funds at Southeastern University. Needless to say, I was not surprised.

Sharon E. Marburg

Subscribed and sworn to before this 6th day of September, 1990.

Denise A Ramsey
Notary Public

My Commission Expires: 4/30/93

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 59

AFFIDAVIT
OF
DAVID L. OSBORNE

I enrolled in the Pastry Chef Curriculum at the Culinary School of Washington in 1982. I completed this 30-week program and graduated in August 1983. While a student at the Culinary School, I was asked by Mary Ann Kibarian, President, to teach a course in Russian cookery to the senior chefs in their International Cuisine course. I was not there to teach technique (I was not an experienced restaurant chef), but to teach a new cuisine and expose student-chefs to a different culinary tradition. I agreed to do so and taught the course periodically for the next five years. I taught the last time in the summer of 1988. I believe I was asked to teach because Mrs. Kibarian wanted the student-chefs to have a very broad exposure to ethnic cuisines. I think that learning about Russian culture and cuisine was a benefit to the prospective chefs.

In late 1983 or early 1984, Dr. Barkev Kibarian telephoned and asked me if I would be willing to serve on the School's Board of Directors. I agreed to do so, expecting to make a contribution to curriculum development and assist the School in meeting the needs of students. Dr. Kibarian spoke of meetings two times a year, perhaps a winter meeting in Florida and a summer meeting in Maine. To date we have met one time, roughly three years ago at the Westin Hotel in Washington. Only one other member of the Board of Directors was present for that dinner and we did not discuss the school's programs or students. It was purely a social occasion. I believe I was asked to serve on the board so that Dr. Kibarian could use my academic credentials to enhance the status of the School. I believe he uses my name to this day for the same reason. I believe the Board of Directors has always been "eyewash". I have never had any knowledge of the School's financial operations.

Some time after asking me to be a member of the Board, Dr. Kibarian discussed a new program, the Associate Arts Degree, and he asked whether I would teach a history course. There would be five courses offered and upon completion the student would receive a diploma in addition to the certificate awarded by the School upon completion of the culinary curriculum. I was very skeptical because I felt that students in a trade/vocational school were there because they were not academically-oriented and there would be no interest. He persuaded me to teach the course and I agreed, structuring the course around culinary history and a history of dining. The class met one evening a week for two hours for fifteen weeks. I was more than surprised at the interest in the course and the high quality of the students. Unfortunately, because most students were fully employed in addition to attending their culinary classes, the initial enrollment in the courses (roughly twelve students) dwindled to two. The other courses must have met a similar fate because the Associate Arts Degree program was dropped.

In about 1985 Mrs. Kibarian wanted to begin an honors program for those students who wanted to do more than average work. She hoped to award these honor graduates with internships at established restaurants, both in the United States and abroad. She asked me to head this program, lecturing in culinary history and advising the students on their honors research papers. Three students completed the program. I do not know whether any internships were found for these students.

Other than purely social events (occasional lunches and dinners with Mrs. Kibarian) and participation in the annual graduation ceremonies, this is the extent of my association with the Culinary School of Washington. Until 10 September 1990, when I was shown a letter written by Dr. Kibarian in which my name and title were mentioned as faculty member, I believed that the Culinary School of Washington was no longer in operation and had been closed. I have never authorized the use of my name or professional position by Dr. Kibarian in any way other than that stated above. I am not willing for my name to be used by Dr. Kibarian in connection with the Culinary School of Washington or any other entity he may create. My position on the Board of Directors or as member of the faculty was never discussed with anyone until 10 September 1990 with the Subcommittee staff.

I know of allegations by students and accreditation officials against the Culinary School only from news reports. My own experience as a student and instructor has been mostly positive. There were problems with provisions and supplies on occasion but, generally, my requisitions were always filled to the best of my expectations. The quality of the students in my class as a student was very high. The quality of the students in my classes as chef-instructor varied as in any other classroom situation, a few excellent and a few sub-standard, but the majority were good. There was a rather high number of student dropouts between first and second semesters, however, and I felt that was because of lack of interest in proceeding, individual financial problems, or failure to perform at a satisfactory level.

I only have suspicions about how the Culinary School was operated. I have no direct or indirect knowledge of financial matters and know of allegations regarding student loans only from hearsay. I do not know Dr. Kibarian's motives in operating the School. I do know, however, that the use of my name, title, and professional position was a clear misrepresentation by Dr. Kibarian. It is a misrepresentation for Dr. Kibarian to imply in his letters that I am now associated with the Culinary School of Washington in any way.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 60

STATEMENT

Garry D. Hays, President

Higher Education Assistance Foundation

Before the

Permanent Subcommittee

on Investigations

U.S. Senate

September 12, 1990

Mr. Chairman and Members of the Subcommittee:

The Higher Education Assistance Foundation (HEAF) is pleased to respond to your request that we submit to the Subcommittee a written statement for the record concerning the Foundation's involvement with the Culinary School of Washington (CSW).

The Culinary School of Washington (CSW) has participated in HEAF's guarantee program since 1982. From the school's inception to its closing, HEAF guaranteed 3,471 loans totaling net volume of $6,188,066 for students attending CSW.

As part of its role as a guarantor in the Guaranteed Student Loan programs, HEAF performs program reviews of schools in order to assist schools in the proper administration of the programs and to assure compliance with program regulations so that the fiscal interests of the Federal government are protected. The first such review of CSW was performed in June, 1984. The report issued following that review stated: "The review indicated several areas of potentially serious concern which the school will need to address in order to keep itself in compliance with prescribed regulations and good business practices." Findings of this review indicated poor record keeping practices, missing documentation, improper disbursements, and errors by the school in completing loan applications.

A second review of CSW was conducted in April, 1985. While the report noted improvements in the school's administration of the loan program, it did state that "there remain areas of concern." Specifically noted were incorrect certification of students' dependency status, incomplete attendance records, improper disbursements, and a high cancellation rate.

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I have read, reviewed, and initialled each page of this statement consisting of -- pages, and I swear, to the best of my knowledge and belief, that the statements contained herein are true and correct.

David L. Osborne
David L. Osborne

Sworn to and subscribed before me
this 14th day of September 1990.

Kimberly A. Brinkman
Notary Public

NOTARY PUBLIC
DISTRICT OF COLUMBIA

My commission expires:

MY COMMISSION EXPIRES APRIL 14, 1994

In early 1986, HEAF became aware of refunds being paid late by CSW and referred this matter to the Office of Inspector General of the Department of Education. By June of that year, it was determined that the school had been failing to pay tuition refunds as they became due and that nearly $650,000 was owed to students who had withdrawn from the school. HEAF immediately took action to suspend CSW from participation in its programs and then entered into lengthy negotiations with the school over repayment of the refund liabilities. A Limitation Agreement between HEAF and the school was executed on October 21, 1986 providing for repayment by the school in monthly installments of the unpaid tuition refunds, accrued interest, and excess special allowance billed to the Federal government. The Agreement also contained various provisions designed to safeguard the integrity of the program as administered by CSW and to provide appropriate remedies in the event of a breach.

The school made monthly payments to HEAF, pursuant to the Limitation Agreement, which HEAF in turn distributed to the current holders of the students' loans as well as to the Federal government. Although the school was current in its payments to HEAF, in July, 1987, HEAF determined that CSW was again failing to pay current tuition refunds on loans guaranteed by another guarantee agency. These refunds were promptly paid by CSW after HEAF notified the school of its intent to invoke the termination clause in the Limitation Agreement.

In June, 1988, HEAF performed yet another program review of CSW. As stated in the report issued following that review, "The review noted that the institution continues to have serious problems and administrative errors in its handling of the student loan program. The school also continues to demonstrate non-compliance with the terms of the Limitation Agreement entered into in October 1986. The findings range from improper loan disbursements and late student loan refunds to inaccurate, inconsistent record keeping methods. The findings of this review seriously question the institution's ability to provide the required internal controls as well as its ability to properly administer the Guaranteed Student Loan program." HEAF then undertook extensive efforts at resolving the program review findings, even though CSW had ceased using HEAF as a guarantor and was current in its payments under the Limitation Agreement. Although there were many discussions with school officials and extensive review of documentation, CSW failed to satisfactorily resolve all program review issues. As was the case in all past reviews, HEAF informed the Department of Education and the Office of Inspector General of its findings and worked with the Department in an attempt to resolve the issues. Liabilities totalling $36,751.73 identified in the 1988 program review were never paid by the school.

CSW continued to make payments on past due refunds under the Limitation Agreement until November, 1989. Up to that point, CSW had repaid $537,000 which was distributed to approximately 300 student loan borrowers and the Federal government. There are, however, approximately 300 former students who are still owed refunds by the school, some of who attended as long ago as 1984. The dollar amount still owing on these accounts is approximately $150,000. Students who are admittedly owed by the school are still obligated on their student loans for the full amount of the loan in the event the school closes or fails to pay the refunds due. The effect of late payment or nonpayment of refunds is to decrease the ability and willingness of the borrowers to repay their loans, thus increasing the default rate and ultimate costs of the program.

It is important to note the HEAF's oversight responsibility with respect to any school relates solely to that school's ability to administer the student loan program in accordance with Federal regulations and HEAF policies. HEAF has no authority to determine whether a school, or a particular program offered by a school, is eligible for participation in the Title IV programs. Although HEAF often questions whether particular programs meet Federal requirements for program eligibility (e.g. insufficient number of hours required), these issues can ultimately be resolved only by the Department of Education. Another major area over which HEAF has no authority or responsibility is that of quality of education. This general phrase encompasses things such as the level of instruction, the adequacy of facilities, the nature of representations made to prospective students, and the schools' placement services. These matters are properly in the domain of the Department of Education, accrediting agencies, and licensing commissions. Although HEAF has no control over or duty with respect to these matters the quality of education obviously has a direct impact on the rate of default by the students. Poor education, misrepresentations, recruitment practices that result in the enrollment of students unable to benefit, and poor placement services lead to significant numbers of dropouts from a school or unemployment upon graduation. In either case, defaults result from borrowers either unwilling or unable to pay back their student loans.

In the case of CSW, complaints with respect to the quality of education were almost constant from the early 1980's to the school's closing. The school received much publicity over the years concerning its educational facilities, misrepresentations to students, lack of qualified instructors, and poorly administered housing program. Since students' dissatisfaction with CSW led to their refusal to pay their loans, many such complaints and allegations were made to HEAF. Unfortunately, there was very little HEAF could do for these students except to refer them to the agencies which accredited CSW or to other regulatory bodies.

The quality of education issues, coupled with the school's failure to pay tuition refunds, has combined to result in an extremely high default rate for CSW. To date, HEAF has paid out $2,448,204 in default claims for borrowers who attended CSW. This represents a net default expense to HEAF of nearly $500,000, with the U.S. taxpayer carrying the burden of the remainder of the expense. This level of default translates into a 46 percent mature paper default rate for the HEAF-guaranteed portfolio. HEAF's mature paper default rate is an expression of the percentage of mature loans that have defaulted. Mature loans are defined as loans that have been in repayment for at least 360 days, as this is the earliest possible time frame for a default claim to be paid. The 1988 cohort rate, as calculated and published by the Department of Education, for the Culinary School of Washington is 32.7 percent. While this is the school's official default rate, it should be noted that it is not a true representation of the school's actual rate of default. This results from the fact that, at one point in time, CSW obtained a large number of loans for its students through the First Independent Trust Company in California. These loans were sold to the California Student Loan Finance Corporation (CSLFC) and serviced by United Education and Software (UES). Because of gross servicing irregularities at UES, all guarantors involved suspended payment of claims on any loans serviced by UES. This has caused an artificial reduction in the cohort rates of many schools because the loans being included in the denominator of the equation as loans entering repayment and excluded from the numerator from the equation, the number of default claims paid. To illustrate this fact, HEAF has recalculated a 1988 cohort rate for CSW to demonstrate the effect of the moratorium on payment of UES claims. For the HEAF-guaranteed portion of CSW's portfolio, the 1988 cohort rate is 13.4 percent. By excluding the loans affected by the claim payment moratorium from both the numerator and denominator of the equation, CSW's 1988 cohort rate jumps to 42.4 percent. This cohort rate is a much more accurate reflection of the default picture with respect to CSW.

While the CSW situation is somewhat unique in that the school, unlike many others, did repay a substantial portion of its previous liabilities, the problems found at CSW are not unique. HEAF is faced daily with schools seeking student loan funds whose administrative and operational capabilities are questionable. Although, as a guarantor, we have no authority to determine eligibility or evaluate quality of education, we do vigorously pursue problems which fall into areas of a guarantor's responsibility. In this regard HEAF has a long history of aggressively taking limitation, suspension and termination actions against schools in order to restrict their participation in the student loan program. HEAF has also been successful, in many instances, in obtaining payments of liabilities owed by schools. Such aggressive action is necessary by all parties having responsibility for the student loan program if situations like that of the Culinary School of Washington are to be prevented.

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 61

STATEMENT FOR
THE RECORD BY
D'WAYNE GRAY
CHIEF BENEFITS DIRECTOR
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
UNITED STATES SENATE
September 12-13, 1990

Mr. Chairman and members of the Subcommittee:

Thank you for the opportunity to describe for the Subcommittee our various educational assistance programs and our experience with the State approving agency (SAA) course approval system.

The GI Bill

Two weeks after D-Day, President Roosevelt signed the GI Bill of Rights into law. This law is said to have had greater impact on the American way of life than any law passed in this century. The educational benefits conferred by this legislation 46 years ago set the stage for changing the significance of and access to higher education for millions of Americans. It inaugurated the concept of educational assistance as an essential tool to aid in the readjustment of veterans to civilian life following discharge from military service.

Since enactment of the first GI Bill in 1944, over 20 million persons have been enrolled in some form of GI Bill training. This investment in education of over $71 billion has been more than paid back not only in contributions made by a better educated Nation, but also by the increased income taxes paid by veterans whose educational pursuit substantially improved their earning capacity. The ratio of return on investment most frequently ascribed to this is $7 returned to the U. S. Treasury for every $1 provided in benefits.

Montgomery GI Bill

During the past decade, Congress emphasized the need for, and sought various ways to promote and assist the All-Volunteer Force program and Total Force Concept of the Armed Forces. One result was enactment of the Montgomery GI Bill (chapter 30 of title 38, and chapter 106 of title 10, United States Code).

The Montgomery GI Bill (MGIB) provides education benefits to individuals who, after June 30, 1985, first entered active duty or made a 6-year commitment to serve in the Selected Reserve. (Certain individuals who were entitled to benefits under chapter 34, the Vietnam Era GI Bill program, when it expired on December 31, 1989, also could establish chapter 30 program entitlement.)

The MGIB program has proved an overwhelming success. The Department of Defense has notified us that, through the end of June 1990, close to 940,000 servicepersons, 72 percent of those who were eligible, had participated in chapter 30. Through the end of May, reductions from military pay for such participation amounted to almost $995 million.

Training under the Selected Reserve portion of the MGIB also is proceeding rather well. Through the end of March of this year, close to 170,000 Selected Reservists had trained under this program since its inception on July 1, 1985. The Army National Guard has had the largest number of trainees, with some 67,000. Next highest is the Army Reserve with over 41,000.

Other participation figures are: Air National Guard--over 18,000; Navy Reserve--over 17,000; Air Force Reserve--11,000 plus; Marine Corps Reserve--close to 12,000; and Coast Guard Reserve--just about 1,500.

Other Programs

In addition to the MGIB programs, VA administers the Dependents' Educational Assistance Program for survivors and dependents of veterans (chapter 35, title 38, United States Code) and the Post-Vietnam Era Veterans Educational Assistance Program (chapter 32, title 38, United States Code). The latter is a contributory educational assistance program for veterans and servicepersons under which the Government matches the participant's contributions on a two-for-one basis. While this program now is closed to new members, a large number of individuals remain eligible to train under the program and many currently are doing so.

VA also administers a most important program for service-disabled veterans. Although this Vocational Rehabilitation Program (chapter 31, title 38, United States Code) is not strictly subject to the SAA approval system, it heavily relies on such approvals when placing chapter 31 veterans into institutional training.

Finally, we administer educational assistance programs for, or in conjunction with, other departments pursuant to statute or interdepartmental agreement (e.g., the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) for the State Department). These programs have far less significant numbers of trainees than the other programs mentioned above.

State Approving Agencies

The need for an effective approval process for veterans' educational programs became a key issue of congressional focus following documented abuses under the World War II GI Bill program. It had become apparent that Federal attempts at supervising schools and monitoring student attendance and progress were woefully inadequate. Further, many considered such activities an unwarranted Federal intrusion into matters of education policy traditionally within the prerogative of the states.

Congress ultimately settled upon a joint Federal-State cooperative approach. It initiated the State approving agency (SAA) system as a vehicle for states to disqualify poor-quality training establishments and assist VA in monitoring compliance with, and avoiding abuse of the GI Bill.

The SAA course approval function was an integral part of the Korean Conflict GI Bill and, due to its proven effectiveness, was retained in the Post-Korean Conflict and Vietnam Era GI Bill. It remains an essential administrative component of our current educational benefits programs.

The number of veterans in SAA-approved education and training programs has shown a steady decrease from a peak of nearly three million in Fiscal Year 1976 to slightly less than one-half million in Fiscal Year 1990. This reflects, to a large extent, the termination of the chapter 34 GI Bill on December 31, 1989. In any event, however, we expect a significant increase in these numbers with the growth of the Montgomery GI Bill. We will continue to depend on the SAA course approval process to help ensure the integrity of the Montgomery GI Bill.

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Current statutory provisions governing SAAs are found in the sections under subchapter I of chapter 36, title 38, United States Code. Section 1771 of that chapter requests the chief executive of each State to designate an SAA to act for that State in approving and supervising programs of education and training for veterans and eligible persons. Approval responsibility is stated in section 1772, and section 1773 mandates VA-SAA cooperation to assure effective program operation and compliance by program participants.

Section 1774 authorizes reimbursement to SAAs for reasonable and necessary salary and travel expenses incurred in performing their mandated approval and supervisory duties, and includes a schedular administrative expense allowance. Section 1774A provides for assessment of SAA performance.

The criteria for approving accredited, nonaccredited, and on-job training courses are set forth in sections 1775, 1776, and 1777 of chapter 36, respectively. Section 1778 provides for notice of course approval, and, finally, section 1779 states when courses must be disapproved.

In recent years, Congress has enacted legislation to help assure the effectiveness, efficiency, and responsiveness of the SAAs. For example, Public Law 100-323, "The Veterans' Employment, Training, and Counseling Amendments of 1988," enacted on May 20, 1988, authorizes:

- reimbursement payments to SAAs from VA's Readjustment Benefits account;

- funding of up to $12 million each fiscal year for SAA activities; and,

- prototype qualification and performance standards for SAA employees and an SAA performance evaluation system.

Following enactment of this law, VA contracted with 67 SAAs for $11.7 million of services during Fiscal Year 1989. SAA contracts for Fiscal Year 1990 totaled $12.0 million.

Further, VA, in conjunction with the National Association of State Approving Agencies (NASAA), implemented prototype SAA employee qualification and performance standards, as well as a performance evaluation system which uses both SAA and VA regional office input. Each State approving agency's Fiscal Year 1990 definitive contract included an operating plan, proposed employee qualification standards, and proposed agency performance standards.

More recent legislation, Public Law 101-237, the "Veterans' Benefits Amendments of 1989," enacted on December 18, 1989, provided funding for development and implementation of a uniform national training curriculum for new and current SAA employees from the $12 million Readjustment Benefits account allocation authorized for SAA payments. The NASAA, through the Iowa Department of Education on behalf of all SAAs, entered into an agreement with the University of West Florida for the development and implementation of the curriculum during Fiscal Years 1990 and 1991.

Federal Program Approval Processes

The program approval process is needed to assure that recipients of Federal educational assistance are afforded quality education or training at reputable institutions in furtherance of the purposes for which such government funds are provided.

Under our system, SAAs evaluate courses and schools for compliance with title 38 and pertinent VA regulations. We, in turn, review the appropriateness of each SAA approval action.

In approving courses for VA benefit purposes, SAAs may favorably consider accreditation by national and other accrediting bodies, but accreditation is not a prerequisite for approval. About 95 percent of institutions of higher learning and 72 percent of noncollege degree programs where veterans are enrolled are accredited, however.

In recent years, the education benefit programs VA administers have experienced a low rate of abuse. A number of factors have probably contributed to this, including a decline in veteran school enrollment and the fact that Post-Vietnam Era and Montgomery GI Bill active duty veterans have a monetary investment in the benefits they receive, as previously described above.

The SAAs also undoubtedly have been a key factor in keeping abuse rates low through their approval and supervisory process. Most schools, after initial approval, receive an on-site inspection visit by the SAA at least once a year. In addition, a compliance inspection visit may be conducted by VA personnel.

The SAA approval system has proved its effectiveness over 4 decades. Indeed, we are aware of no other operational approach which is more effective in preventing program abuse by schools or which otherwise would better ensure the integrity of the education benefit programs VA administers.

Culinary School of Washington

You asked for any information the Department has concerning the Culinary School of Washington. The District of Columbia Education Licensure Commission, acting as the SAA under contract with VA, approved the Culinary School of Washington effective June 27, 1981. The school was approved to offer a diploma in Culinary Arts and was accredited by the National Association of Trade and Technical Schools.

Over the years, VA performed annual compliance surveys at the school and found routine reporting and approval discrepancies. These discrepancies involved absence reporting and other approval issues. The SAA and the school usually provided adequate responses. Nevertheless, follow-up surveys were recommended.

During a survey in December of 1984, VA found that the school, after providing assurances during the previous surveys that it had taken action to correct existing discrepancies, continued to engage in activities contrary to VA requirements.

After attempting unsuccessfully to obtain adequate responses from both the school and the SAA, VA suspended payment of VA benefits to newly enrolled VA students effective August 16, 1985. This was the first step toward referring the school to the station's Committee on Educational Allowances with a recommendation to suspend benefits for all VA students and to withdraw the school's approval.

A meeting was held with school officials on August 27, 1985, to ensure that they understood what constituted acceptable corrective measures. However, neither the school nor the DCSAA responded with adequate assurances. Consequently, payment to all VA students was suspended effective October 16, 1985, and the Committee on Educational Allowances (an Ad Hoc committee formed to hear such compliance disputes and recommend action) was directed to convene to consider formal action to withdraw the school's approval.

The school responded to our action by letter of December 4, 1985. This letter offered prima facie evidence that adequate corrective measures had been taken by the school. However, VA decided that a site visit should be conducted by Washington regional office personnel to ensure that these measures were actually in place before action would be taken to restore VA benefit payments.

It should be noted here that, in 1986, the Washington regional office terminated, for noncompliance, the contract under which the D.C. Education Licensure Commission acted as SAA for the District of Columbia. The Washington regional office then assumed these responsibilities itself.

VA conducted a follow-up compliance survey of the school on December 19, 1985, and found that major discrepancies still existed involving both approval issues and enrollment certification data submitted to VA. Survey staff recommended action to withdraw the school's approval, and such action was initiated in March of 1986.

On March 4, 1986, a meeting was held at the Washington regional office with representatives of the DOE, Inspector General's Office, VA Inspector General's Office, the FBI, and education staff members of the regional office. It was disclosed at that time that both the FBI and DOE were investigating this school based upon numerous complaints received. We shared information obtained during the compliance surveys with these agencies.

When we advised school officials of our intent to again initiate withdrawal of the school's approval, they obtained legal counsel to contest our findings and recommendations. Negotiations began between the school and the Washington regional office's District Counsel. Before a formal hearing was held, the District Counsel reached an agreement with the school and it voluntarily withdrew its approval to train veterans. This withdrawal was effective on April 18, 1986.

The agreement with the school included a stipulation that it could reapply for approval after January 1, 1987. The school did reapply in early 1987, but was unable to meet VA approval requirements. The school again reapplied for approval to train veterans in early 1988. Once more, however, the school failed to meet approval requirements.

We note that no significant numbers of VA students were at any time enrolled in the Culinary School of Washington. In fact, when VA suspended payments in October 1985, only 14 VA students were identified as being enrolled at the school. VA's subsequent compliance survey in December 1985 found that only 6 VA students remained, out of a total student body of 243.

Mr. Chairman and members of the Subcommittee, this concludes my statement.

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Senate Permanent Subcommittee
on Investigations

EXHIBIT # 62

September, 6 1990

United States Senate
Deputy Chief Counsel
100 Russell Building
Washington, D.C. 20510

Dear Mr. Sopko:

Per conversation with you on September 4, 1990, please use this letter as a guide to my observations while employed at the Culinary School of Washington. I found that the managerial techniques used in the daily operation, was a determining factor in the creation of problems for the school.

Policies and Procedures were not being used from the Department of Education. The turnover of employees was unusually high, and the complaints by former and current students concerning the actual cost of attending the school was high. While employed with the Culinary School of Washington, I received anywhere from six to eight telephone calls or visits from students saying they were told by the Admissions Representative one cost of attending the CSW, when they were actually being charged a cost totally different from the initial enrollment cost. I was told by Mr. Kettler to refer these calls to the Accounting Department.
I could not find the Regulations from the Department of Educati[illegible] ,Dear Collegue Letters, Annual Regulations etc.,). The Financial Aid Department had no way of knowing the changes by the Department. In school changes were not expressed in writing either. The school had no policies or procedures for the daily operations. This concerned me a great deal.

I noticed on several occasions when GSL applications were signed but the remaining information on the application was blank. If the students are not counselled in financial aid about their obligation for repayment of these loans, the default rate will be extremely high for CSW.

These were the major problems I noticed at CSW. My tenure was brief with this company because I simply could not work for a company that was as unorganized and one that experienced as many problems as CSW. I do believe under the proper management, CSW could have been one of the better Career Schools.

I am a great believer in following the Policies and Procedures. It is a great guide to follow when you want smooth operations from any company.

If I can be of further help, please contact me.

Thank you,

Deborah A. Simmons

PS. I also noticed a lot of complaints concerning checks signed by someone other than the student.

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 63

CULINARY
SCHOOL
of WASHINGTON
Paris Rome Beijing Inc

SEP 1990
Proprietary School
Service

Dear President:

The key ingredient for "Tirami Su", an outstanding Sicilian dessert, is mascarpone cheese, imported lady fingers soaked in espresso and rum, and chocolate. If the recipe is followed by an experienced chef, the outcome is perfection -- considered a most outstanding dessert among connoiseurs.

Enclosed is a proposal for your own turn-key cooking school, prefected by experience and proven the most profitable new program in demand by students and a depression-proof job market.

Financially painless for you to start because we do all the work, and the tuition is in your hands before students start the program.

Please read the enclosed proposal and call me for a meeting, or let's just talk about it. There is no cost or obligation, and this creative program could double your current revenue. I can be reached at 301-983-2823. Please call now.

Yours truly,

Barkev Kibarian

Barkev Kibarian, Ph.D.
Chairman of the Board

餐
The Great Cuisines
中
of China

P.S. If you would like a sample of Tirami Su, call me.

7624 Mary Cassatt Drive, Potomac, Maryland 20854 (301) 983-2823

CULINARY
SCHOOL
of WASHINGTON
Paris Rome Beijing inc

Financial and Consulting

AGREEMENT

To Implement The Chefs Program

The purpose of this agreement is to create a Chefs Program for you that meets the standards of academic excellence and is financially sound.

The game plan is to assemble the first class efficiently in order to limit the cash outlay for both parties.The Culinary School agrees to orient, train and advise the school staff regarding the food service industry and the educational component; recruit students and faculty; to administer and evaluate the initial class to accomplish a smooth take-off, calm sailing, and reach its sheltered harbor of continous and expanding financial rewards

The specific resources provided by you and the schedule of payments are carefully designed to synchronize with the program's accomplishments, toward the common goal of generating a class and the resulting revenue.

餐
The Great Cuisines
中
of China

7624 Mary Cassatt Drive, Potomac, Maryland 20854 (301) 983-2823

The implementation of this program is made up of four stages: First, the Culinary School will provide a lesson plan and curriculum to aid in meeting government and accreditation requirements. The second stage is securing a classroom site and recruiting students. The third stage is recruiting faculty, supervising the teaching, and controlling the standardized requisition procedure for providing raw food for cooking. The final stage is an insurance policy to assure continued success and to meet any emergency (such as a "a faculty member quits" in the middle of the semester), review and bolster recruiting effort to assure a continous flow of students. In essence, the program will operate as you envision it, and if you need us we are here.

A class of 25 students based on a tuition charge of $6000 to $8000 will generate $150,000 to $200,000 per class. The Culinary School is prepared to generate this class generally within a two month period. The cost of the complete program is only $50,000. The following payment schedule is designed for you to provide a modest deposit until the flow of revenue is assured.

Stage One: The Culinary School will provide a turn-key Chef Program, fine-tuned over a ten year period.The refinement of the curriculum and lesson plan has had the benefit of practitioners and educators such as the Chefs of French , Italian, Swiss and Belgian Embassies, to name a few. Dr. David Osborne, of the Library of Congress, is among the educators who are also graduates of Culinary Schools and Universities. The Lesson Plan also relates to various text books for reading assignments and subject development.

In addition to the detailed daily lesson plan, the following are included: one uniform, a Henkle knife set, a set of coordinating text books, a sample contract to rent outside facilities, standardized examinations , standardized daily food requisitions,and procedures for daily proficiency asessment of faculty and student. The program is applicable to clock or credit hour arrangements. This material is more than enough to obtain regulatory approval.

The total cost of the program is $50,000. However, the first stage merely requires $15,000 deposit so that you may proceed to meet your approval requirements.

The Second Stage is recruiting the first class. The Culinary School will train your staff and provide personnel and advertising samples to solicit students to attend the "Chefs" training program. A salesman presentation manual, "buzz-words", a printed sales presentation will be provided as well as a real home demonstration where pizzas are produced by your recruiters to enjoy dinner with the family during a sales presentation. The production and mailing of edible rum balls are taught with soft recruiting copy for prospects too far for a home visit. Literally, a class of 25 will be recruited which should generate $150,000 to $200,000 based on tuition ranging from $6,000 to $8,000. Normally 8 weeks are required to generate a class.

A second payment of $15,000 will be due 60 days after the initial down payment. The remaining payment due is $20,000 which is payable 90 days after the first payment; most of the tuition will begin to flow and be in your posession from this class at this point.

The Third Stage entails the recruiting, evaluating and monitoring the faculty and students; purchasing of the raw material for classroom cooking,and controlling this procedure; and finally, to assure an esprit de corps among the students and enthusiasm from the industry .

A designer uniform for your particular school will be designed and sources of other supplies , such as publishers and food purveyors will be secured and provided.

The Fourth Stage is continuous monitoring and consulting at no further cost to assure continued success, and equally important, a source of advice for putting out fires, should they arise.

This agreement may be amended in writing only and signed by both parties.

This agreement is offered under the laws of Maryland and shall become effective if both parties accept by signatures within 30 days of the date below.

Executed by the parties, hereto, through their authorized representatives, this________ day of __________________.

______________________________ Date__________________

For School

Date September 3, 1990

For the Culinary School

P.S. Money back guarantee: A deposit of $15,000 accompanied with this signed agreement within 30 day's of the above date.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 64

JUL 1990
Proprietary School
Section

CULINARY
SCHOOL
of WASHINGTON, LTD.
300 G St. N.E.
Washington, D.C. 20002
(202) 543-7358

RECEIVED
JUL - 6 1990
A. I. C. S.
WASHINGTON, D.C.

Dear President:

I have initiated and operated a chef's training school for the past twelve years here in Washington. As of August, 1989, we had as many as 600 students with revenues exceeding six million dollars. I am a former university president and tenured professor at Georgetown University and have been a director of recruiting for over ten years.

I would like to propose that we establish a similar chef's training program on your campus. We will provide the curriculum and expertise, and can assure you a minimum of 100 students for the first year. They could not only aid in operating your cafeteria, but could also take some of your existing appropriate courses in preparation for a certificate or degree to be awarded by your institution.

Such a program could be an important source of revenue--I can assure you a minimum of $500,000 net profit the first year and $1,000,000 the second--with almost no capital outlay if you already have a cafeteria and kitchen facilities, and if you do not local kitchens can be rented during their down time.

I look forward to discussing this proposal with you. Please call for a discussion.

Sincerely,

Barker Kibarian

Barkev Kibarian, Ph.D.
Chairman of the Board

P.S. I am also interested in the purchase of a school or joint ventures.

-also sending
catalog

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TABLE I

INITIATING & MANAGING A GOURMET CHEFS PROGRAM ON YOUR CAMPUS PROJECTED INCOME & PROFIT

Revenue - per class		
Tuition per student $8400		
25 Students - length of Program 16 Weeks		
40 hours per week		$210,000
Direct Cost per Class		
Food $6 per day x 25 students x 80	= $12,000	
Instruction $15 per hour x 640 days	= 9,600	
Books, Lesson Plan, Uniform, Knives	= 12,500	
Advertising per Class	= 6,000	
Total Operating Costs		40,100
Gross Profit		$169,900

* * * * * * * * * * * *

Revenue - 225 Matriculating Students 1st Year	$1,890,000
3 Classes every 4 Months	
9 Classes per Year	
Direct Costs	
9 Classes or 225 Students	360,900
Gross Profit - 1st Year	$1,528,100

Table II

Cash Flow - Scheduled Use of Funds and Distribution of Profits for First Class

Class I Gross Revenue		$210,000
Minus Initial Outlay by Institution	$50,000	
Minus Cost of Program	40,000	90,100
Profit after Initial Outlay and Direct Cost of First Class		$119,900

Class II - To begin one month after 1st Class started

Projected Cost of Class II to be deducted from Revenue earned from 1st Class Revenue	50,000
Distribution of Remaining Profit	$69,900
50% for Institution	$34,950
50% for B.K.	$34,950

Institution recoups its original advance of $50,000 & the costs of operating the 1st class.
New Classes financed from profits.
Institution need not put in any new funds.
Institution realizes 70% return on investment in four months.

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Table III

Cash Flow, Classes II through IX, Illustrating Use of *Additional Expenses & Increased Percentage of Profit for your Institution: 60% for your Institution Starting with 5th Class & 70% Starting with 9th Class

Class II Gross Revenue	$210,000	
Minus Cost of Program Cost of Equipment, Faculty, Supplies	50,000	
	$160,000	
*New Full-time Recruiter	50,000	
Gross Profit before Allocation		$110,000
Class III Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*New Director of Program	50,000	
Gross Profit before Allocation		$110,000
Class IV Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Second Recruiter	50,000	
Gross Profit before Allocation		$110,000
Class V Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Assistant to Director	30,000	
Gross Profit before Allocation		$130,000

* * *

At this point, the profit distribution becomes 60% to the Institution and 40% to B.K.

* * *

Table IV

Gross Revenue for First Year, Profit after Expenses
& Profit Distribution to your Institution & B.K.
with Rate Increases
in your Favor

Class	Gross Revenue	Total Profit After Expenses	To Institution	To B.K.
			(50%)	(50%)
I	$ 210,000	$ 69,900	$ 34,950	$ 34,950
II	210,000	110,000	55,000	55,000
III	210,000	110,000	55,000	55,000
IV	210,000	110,000	55,000	55,000
			(60%)	(40%)
V	210,000	130,000	78,000	52,000
VI	210,000	130,000	78,000	52,000
VII	210,000	130,000	78,000	52,000
VIII	210,000	100,000	60,000	40,000
			(70%)	(30%)
IX	210,000	160,000	112,000	48,000
Totals	$1,890,000	$1,049,000	$605,950	$443,950

Table V

Gross Revenue, Expenses, and Profit for the First & Second Years & Third Year & Profit Allocation

	Gross Revenue	Expenses	Total Profit	Profit to the Institution	Profit R.K.
1st Year	$1,890,000	$840,100	$1,049,900	$605,950	$441,95
2nd Year	1,890,000	840,100	1,049,900	734,930	314,97
3rd Year	1,890,000	840,100	1,049,900	944,910 (2)	104,99

(1) The buy-out figure, at the end of the 2nd year is (1/3)(314,970) = $104,990 if the institution desires.

(2) Assumes Buy-out.

Increased Revenue could result by expansion of number of kitchens and recruiting.

Class VI Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Assistant to Recruiters	30,000	
Gross Profit before Allocation		$130,000

Class VII Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Job Placement Director	30,000	
Gross Profit before Allocation		$130,000

Class VIII Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Director of Marketing & Advertising Public Relations, Production Costs	60,000	
Gross Profit before Allocation		$100,000

Class IX Gross Revenue	$210,000	
Minus Cost of Program	50,000	
Gross Profit before Allocation		$160,000

* *

At this point, the profit distribution becomes 70% to the Institution and 30% to B.K.

* *

I. Buy-out Provision

At any time after the end of the second Year, the Institution may buy-out the program for a payment equal to one-third of the profit share of B.K. over the previous twelve months.

II. Formula for Success:

Recruiting of good quality student body.
Retention--through counseling.
Rolling enrollment to replace drop-outs.
Cost Control to meet budget.
Training of recruiters, Director (responsible for retention), and faculty.
Discourage jobs while in school.
Strong job placement after graduation.
Signed contract with employer to deduct from pay check any loans to school or government.
Alumni relations.

III. Residual Industry:

Temporary employment agency.
Permanent employment agency.
Replace all or part of contract feeding.
Catering pizzas or full meals to local residents.

REPORT OF INVESTIGATION

- Senate Permanent Subcommittee on Investigations

EXHIBIT # 65

Case Title: Culinary School of Washington, (CSW)
1601 Connecticut Avenue, N.W.
Washington, D.C.

File No.: 86-000270

Cross-Reference Number:

Date of Report: OCT 3 1988

Type of Report: Closing

Character of Case: Fraud Against the Government

Ralph Cross

Report of S/A: Ralph Cross

Notice: An OIG audit discovered that CSW failed to make guaranteed student loan refunds in the amount of $375,000. Subsequent investigation resulted in a presentation of the case to AUSA Harry BENNER on January 20, 1988. In the interim period between the OIG audit and August 1988, CSW made $329,000 in refunds to the guarantee agency. After learning of the refunds, AUSA BENNER, who had still not made a decision to either prosecute or decline, advised that criminal intent would be very difficult to prove. As a result, in September 1988, AUSA BENNER was notified that we were closing our case (the FBI had already closed its case). A copy of the report of investigation was sent to the IRS at their request.

An MIR was not prepared since mismanagement was not found.

Distribution: Original: Headquarters

Other Reports:

Approvals:

Ronald L. Pomerantz

Ronald L. Pomerantz, Director
Division of Headquarters Operations

John L. Horn

John L. Horn, Assistant Inspector General
for Investigation Services

JH 10/3/88

OFFICE OF INSPECTOR GENERAL
INVESTIGATION SERVICES
U.S. DEPARTMENT OF EDUCATION
FOR OFFICIAL USE ONLY

[illegible]

Senate Permanent Subcommittee on Investigations

EXHIBIT # 67

AFFIDAVIT

OF

HAMID TABATABAI

I was employed at the Culinary School of Washington in August 1985 as a part time accountant, and subsequently as a full time staff accountant at the beginning of September of that year. I was assigned to start calculating the refunds for the students who had dropped out of the school from 1983 to 1985, the refunds were calculated for the files which were available and refund checks were issued in September 1985. I was allowed to mail out some of the refund checks in November, but the majority of them were held back by Dr. Kibarian.

In December of 1985 the auditor from the Department of Education came to the school for the review and the remaining checks issued in September 1985 were given to me to be mailed. Some checks were mailed at the end of December 1985 and some in January 1986.

The school was having cash flow problems and very few refund checks were issued between January and June 1986, this led to a temporary suspension by HEAF in June 1986, but the school managed to obtain student loans from Wisconsin Higher

Education Corporation. Student loans were obtained from Valley Bank in Wisconsin, which were not guaranteed by HEAF.

The school entered into a limitation agreement with HEAF in September 1986 and was required to calculate the refunds on all of the loans awarded to the students who had attended from 1983 to 1986 based on the data provided by HEAF . according to this agreement , the school was required to make monthly payments towards this debt. Because of the commitment to HEAF , the school was unable to make any refunds on the loans obtained from Wisconsin. Dr Kibarian was fully aware of this , but payments to HEAF had a top priority.

The school started participating in Supplemental Loans for Students (SLS) program in March or April 1987 which helped its liquidity. The tuition was paid through GSL,Pell and the remaining part should have been paid by the students , however because of the inability of the students to pay this balance they used sls loans to make up the difference.This helped the school's liquidity a graet deal In June or July 1987 a lump sum payment was made on the late refunds to Wisconsin Higher Education. HFT

The problem of late refunds persisted because of the school was unable to publish the list of the drop outs in a timely manner , and occasionally the files of the students which had the refund checks issued were distributed to the recruiters to get the students back in the school, even though the 30 day time limit had lapsed. The school was required to refund the unearned portion of tuition within 30 days of the withdrawal date.

In early 1988 I was instructed by the management to ensure that all the refund checks were prepared within the 30 day time limit, even though the drop out lists were published beyond the 30 day limit, "like all other schools in the country". This is quite self explanatory. Since drop lists were published beyond the 30 days, in order to issue the checks within the 30 day time limit, Dr. Kibarian instructed me to backdate the checks.

In November 1989 Dr. Kibarian asked me to provide him with list of the refund checks which had not cleared the bank, so a stop payment could be placed on them. The funds were apparently used to pay for the legal fees of Dr. Kibarian's attorney. This can be verified, since the funds were transferred out of SLS account (after a stop payments was placed on the refund checks) to general account, and the checks issued to attorneys. I resigned from the school because of the improper action of Dr. Kibarian by placing a stop payment on the refund checks. I did not indicate this in my letter of resignation, but I notified his lawyer of this violation.

I have read ,reviewed this statement and I swear to the best of my knwledge and beleif , the statements contained herein are true and correct

Hamid Tabatabai

Sworn to and subscribed before me
this 4th day of October ,1990.

Notary public Churee Russell

My commission expires
6-10-1990

CHUREE RUSSELL

CULINARY SCHOOL
of WASHINGTON, LTD
1 Farragut Square, South
(1634 Eye Street, N.W.)
Washington, DC 20006
CALL (202) 745-2665 TOLL FREE 1-800-624-2314

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 68

August 15, 1989

Dear Dr. Stone:

It was good talking to you on the phone yesterday in regard to talking to Jamie H. Wheeler, Vice President for Administration of ACCET. I am positive that she will be happy to hear of your initial visit with Douglas Somerville to the Culinary School on Wednesday, August 2, 1989

I have enclosed a copy of our Commencement program for your perusal.

Please let us know if we can be of any further assistance. We look forward to seeing Douglas Somerville this week

Sincerely,

CULINARY
SCHOOL
of WASHINGTON, LTD
1 Farragut Square, South
(1634 Eye Street, N.W.)
Washington, DC 20006
CALL (202) 745-2665 TOLL FREE 1-800-624-2314

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 69

August 21, 1989

Dear Mr. Stone:

Dr. Kibanian, Chef Allen and I you might be interested in a special Catering project that our Blue Plains Chef class has been asked to do by the Honorable Marion Barry.

Our Blue Plains Chef Class has been asked by Mayor Marion Barry to cater a special luncheon function in the Mayor's Office on Tuesday, August 29, 1989 at 12 Noon.

According to Chef Allen this is the second time in one year that the Mayor has asked the Culinary

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(1634 Eye Street, N.W.)
Washington, DC 20006
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Schools' Blue Plains Class to Cater a mayoral function] The Mayor's luncheon will number at least 40 people. [I would hope that you and Roger Somerville would be invited guests of Mayor Marion Barry.] If not possibly you could get feedback on how the students performed at this very important catering function.

If you have any questions please give me a call.

Sincerely,

Bob Hanrahan

P.S. A visit to Blue Plains in the A.M. would be [illegible]

CULINARY SCHOOL
of WASHINGTON, LTD.

Commencement

August Twelfth
Nineteen Hundred and Eighty-Nine
Two O'Clock in the Afternoon
The Embassy of the
Federal Republic of Germany
4645 Reservoir Road, N.W.
Washington, D.C.

GRADUATES

EXECUTIVE GOURMET CHEF

AUGUST 14, 1988

Robert Demay
Ronnie Lyons

AUGUST 16, 1988

Iris Almog
Tshibola Kazadi

OCTOBER 8, 1988

Akil Abdul-Rahman
Patricia Murphy

JANUARY 7, 1989

Jerome Braxton
Daniel Lewis
Derreck McConnell

JANUARY 30, 1989

Robin Parker
Gerald Robinson
Tawanda Scott

FEBRUARY 11, 1989

Andre Broadway
Paula Walker
Brenda Madison
James Majette

MARCH 25, 1989

Dennis McClure
Rogelio Perez
Phyllis Thomas

APRIL 9, 1989

Jody Jennings

APRIL 17, 1989

Troy Jackson
Charles Stewart

MAY 29, 1989

Afolake Adenikinju

AUGUST 9, 1989

Mike Hebron
Ronald White
Anthony Martin
Carlene Smith

AUGUST 10, 1989

Battie DeBoer
Bobby Staton

CHEF PROGRAM

JUNE 30, 1988

Matthew Adams
Carl Burton
James Majette
Neil Reddock
Cheryl Barnes
Arthur Butts
Richard Mason
Kenneth Wilhoite
Andre Broadway
Whitney Faulkner
Doug Pratt

AUGUST 3, 1988

Richard Bethel
Paul Hart
Greg Quarles
Warren Wright
Roderick Curtis
* Jon Henkle
Phyllis Thomas
Marvin Gray
Dennis McClure
Leslyn Wheeler

AUGUST 10, 1988

Audell Barbour
Alfred Holmes
* Adelina Roberts
Leonard Thompson
Etta Clark
Mark McClanahan
Claudette Smith
Nancy Wilson
James Grantham
Deborah Reed-Osilesi
Larry Smith

SEPTEMBER 3, 1988

Blanca Agosta
Elizabeth Gamboa
Aristides Sosa
Enma Andrade
Lucia Padilla
Ellovadis Torres
Dilcia Cardenas
Rogelio Perez

SEPTEMBER 14, 1988

Gary Granski
Hanna Tannous
Carla Karpovitch
William McKenzie

SEPTEMBER 16, 1988

George Davis
Robert Davis
Jody Jennings

SEPTEMBER 28, 1988

Booker Broadway
* Eric Deneal
Louise Gray
David Lennitt
Micah Swann
Burnetta Coles
Michael Farrell
Linda Hamil
Gerald Murray
Paul Wells
* Bettie De Boer
Dierdra Graham
Michael Ingram
* Patricia Schaf
Wall Young

* High Academic Achievement

Commencement
August 12, 1989

Processional

† Invocation

Welcome .... Mary Ann Kibarian
President of the
Culinary School of Washington

Introduction
of Commencement Speaker .... Hon. Robert P. Hanrahan
Admissions Department of the
Culinary School of Washington,
Former Member of Congress,
State of Illinois

Commencement Address .... The Honorable Carl C. Perkins
U.S. Congressman, Kentucky
Committee on Education and Labor

Conferring of le Certificat d'un Diplome .... Don Kettler
Academic Dean
Culinary School of Washington

Presentation of Citations for
Outstanding Achievement ... Presented by Mary Ann Kibarian

Outstanding Student Award Presentation .... Dr. David Osborne

Distinguished Faculty Award .... Presented by Francois Peter
Faculty, Culinary School of Washington

Special Citation for German Embassy .... Presented by David Bearl

Presidential Award .... Presented by Mary Ann Kibarian

† Benediction

Recessional

RECEPTION FOLLOWS

† *Audience will please stand*

OCTOBER 9, 1988

Pamela Banzhoff
James Jackson
Jeffrey Rascher
Mik Wagner
Billy Wright
Joseph Cornelious
Jack Loh Ah Sek
Marsha Roberts
Ronald Wallace
Clyde DePugh
Robert Mingo
Reginald Sye
Philip White

OCTOBER 13, 1988

Onita Brewington
Thomas Newby
Marie A. Young
Juan Brown
Gary Swann
Sharon Newby
Charles Winbush

NOVEMBER 20, 1988

Felix Bonett
Calvin Corley
* Terri Lamar-Burr
Harold Wallace
Teresa Bullaro
Thomas Fields
Eddie Page
* Gary Wood
* Thurmon Bundy
* Carol King
Randolph Robinson

DECEMBER 12, 1988

Ed Balch
Gregory Moore
David Grant
Kelly Whitfield
Ronald McGriff

DECEMBER 15, 1988

Cornell Bell
Edgar Poe
Alfons Hill
Maxwell Poindexter
William Kennedy
Charles Smith

DECEMBER 26, 1988

Quentin Allen
Kenneth Currie
* Peter Hoffman
Antonio Orr
Sandra Turner
John Bledsoe
Naomi Gifford
Francell Jones
Gregory Rivers
Ronald White
Lisa Burruss
Michael Hebron
Anthony Martin
* James Stevens
Esperanza Zayas

DECEMBER 28, 1988

Bobby Staten
Shirley Washington

JANUARY 13, 1989

Comfort Boadu
Joseph Jeffries
Dean Reber
Lance Schott
Evan Bowen
Darryl Jones
Keith Rudisill
Philip Therrien
Kelly Fausnight
Richard Pasko
Greg Scales
Ricky Tillman

JANUARY 23, 1989

Geoffrey Barrow
Gloria Guardado
Christopher Keller
Miguel Tirado
Kenneth Broadus
Sharon Goodman
Tee Saelim
Rebecca Williams
Joshua Brown
Mark Harris
Christina :haffer

JANUARY 28, 1989

Theresa Beatty
Cindy Johns
Charles Shelton
George Covington
* Frances Pavay
Ed Dalton
* Jonquil Reese

FEBRUARY 13, 1989

* Alice Bowen
* Joan Hayes
Otis Collins
* Jaime Revolvo
Thomas Hall
Duane Watson

FEBRUARY 18, 1989

Butler Bonner
Jeni Johnson
Sandra Reed
Cedric Gray
Janice McGill
Carlene Smith
Eric Huff
Diane Oliver
Earl Smith

FEBRUARY 22, 1989

* John Adams
* DeWalter Dickerson
* Clifford Knoll
* Irma Shannon
Henry Smith
Joan Baker
John Holmes
Charlie Lucas
* Timothy Sipple
Allen Vice
* Colin Coyne
Caron Johnson
Kirsten Rettig
* Milton Speight
Michael Willis

MARCH 13, 1989

Betty Boulware
Harold Southerland
Robert Fair
Anthony Wills
* Scott Lawrence
Keith White

MARCH 15, 1989

James Booze
Charles Hall

APRIL 3, 1989

Irene Allen
Ian Fox
Troy Jackson
William Patrick
Carolyn Tolson
* Alonzo Bowling
Presimon Honore
Catherine King
Eddie Powell
Harvey Turner
Amarleono Burnette
Michael Hosten
* Diane Majors
* Jeffrey Prettyman
Ianthya Williams

* High Academic Achievement

APRIL 16, 1989

Allison Ames
Anita Barnes
Regina Huggins
Amy Arrington
Marieth Bomani
Lisa McCrea
James Barker
Gregory Grimes
Robert Rooths

APRIL 20, 1989

Darryl Carriker
Phyllis Washington
Nicole Whitten

MAY 9, 1989

Audrew Bentley
Fred Duruamaku
Alfy Hayden
Michael Jackson
Gary Saunders
* Michele Berry
Angelo Ferrar
Clifford Holmes
* Anthony McChesney
Lionel Smith
Jason Coles
Paul Gilberti
Kenneth Jackson
Keith Pulliam
Utley Wilson

MAY 14, 1989

Cynthia Bowlding
Andra Butler
Joseph Gant
John Nairn
Maria Rondon
Carl Brodigan
Alvin Dumas
Sammie Harris
Florentino Perez
Luis Rosell
Bernadine Brown
Alberto Echazabal
Dorothy McDonald
Maruca Quiroz
Antonio Salinas

MAY 21, 1989

David Barstow
Kevin McMullen
Kenneth Shannon
Roderick Jackson
Douglas Paris
Carlton Simpson
Thomas Lopez
Kevin Pettiford
Mike Winfield

JUNE 4, 1989

Rebecca Barnum
* Gerald McCoy
Fred Shepard
* Derrick Holman
* Martin Olcott
Temistocles Tatis
Thomas May
Derek Patterson
Eric Walker

JUNE 7, 1989

Dorothy Adams
Rena Young
Donald Alston
Michael Davidson

JUNE 8, 1989

Geoffrey Behunin
Gebachew Dembi
Sharon Johnson
Mozel William
William Davis
Stephen Esselinger
Glenn Lewis
Anthony Defreites
Paul Hayes
Linda Norris

JUNE 29, 1989

Edward Boger
Kim Jones
Karyl Watson
James Cooper
Elhambra Olatunji
Cindy West
James Fryer
Kelvin Thompson

JULY 19, 1989

Donnell Green
Timothy Walker
Charles Lawson
Carol Waldeck

JULY 26, 1989

Daniel Camus
Kevin Greene
Sonia Hernandez
Maria Ochoa
Bernardino Villarroel
Clinton Dawkins
Eduardo Hernandez
Mohammed Kamara
Martha Quinto
Maria Fernandez
Juan Hernandez
Jose Mendoza
Jim Ryals

AUGUST 6, 1989

Mark Kelly
David Thompson
Gary Raynor
Brian Smith

AUGUST 10, 1989

Faron Denner
Roosevelt Jackson
Leonard Mayo
Jerry Williams
Lucy Gordon
Philip Kemp
Amelio Pinkney
Omar Hassan
Nathan King
Francisco Reyes

AUGUST 23, 1989

Joan Beverly
Cleveland McFarland
Rachael Ray
Michelle Brown
Wesley McKinney
Robin White
James Glenn
Anthony Mobley

* High Academic Achievement

PASTRY

SEPTEMBER 28, 1988

Kojo Achampong
Michelle Clarke
Tenagre Tilahan
Bola Adesina
Bisi Habeeb
Chui Yap
Ira Carson
Leticia Harris

JANUARY 7, 1989

Carol Beth Bowman
Michelle Willis
Cecilia Hilton
Anatole Nymeck

APRIL 10, 1989

• Julia Childress
Prince Owusu
Annette Coleman
Deborah Rhode
Kelley Marsden

AUGUST 12, 1989

Bobby Chestnut
Patricia Richards
Christiana Konadu
David Sampson
Sonia Magana
Willa Willis

CATERING

AUGUST 10, 1988

Sandra Johnson
Michael Tinsley
Tonya McCorkle
Tim Warthen
Curtis Millhouse
Marshallyn Whittington

OCTOBER 17, 1988

Marion Catoe
Crystal Warren

FEBRUARY 9, 1989

Mary Arnold

MARCH 13, 1989

Diane Frenette
Leigh Thompson

APRIL 17, 1989

• Donte Hodge
Carol Liburd
• Jaunell Redd

AUGUST 9, 1989

Tomoko Curry
Cecile Nubia

• High Academic Achievement

ADDITIONAL CHEF PROGRAM

SEPTEMBER 28, 1988

Eran Tasco-Bey

APRIL 3, 1989

Mildred Byers
Thomas Jones

APRIL 20, 1989

Donnell Clay
Larry Malloy

MAY 21, 1989

Tim Clarke
Chris Doyle
John Norwood

JUNE 7, 1989

Kenneth Guest

The Culinary School of Washington wishes to express its appreciation to the following companies and individuals who have made contributions to the 1989 Commencement Ceremony.

Atlantic Foods
Ehrlich's Poultry & Meats
Green Springs Dairy
Hanover Uniforms

Organist — Dena Bearl
Minister — James R. Tate
Graduation Coordinator — Lisa Block

Senate Permanent Subcommittee on Investigations

EXHIBIT # 70

GEORGETOWN UNIVERSITY

ffice of the Associate Provost

July 6, 1990

Ms. Pamela R. Pell, Chief
Government of the District of Columbia
Education Licensure Commission
State Approving Agency Division
717 Fourteenth Street, N.W.
Suite 801
Washington, D.C. 20005

Dear Ms. Pell:

Thank you for your letter of June 19 in which you sought verification of the status of Dr. Barkev Kibarian.

Actually, Dr. Kibarian has not been associated with Georgetown University since June of 1967. He had taught marketing courses in the School of Business Administration from September of 1963 until June of 1967, and was given tenure as an Associate Professor in 1966, just one year before he left the University.

Thank you for seeking clarification in this matter.

Sincerely,

Marie-Helene Gibney

Dr. Marie-Helene Gibney
Associate Provost

MHG:mrh

appointment Cancelled
9/21 3p.m.

DESIGN ■ COPY ■ PRINT

[redacted]

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 81

alphagraphics®
Printshops Of The Future
5532 Randolph Road • Rockville, Maryland 20852 • (301) 984-4015 • FAX (301) 231-9207

[redacted]

DATE 9/18/90
TO Lillian Nash
FAX # (203) 576-4653
TOTAL # OF PAGES (including cover sheet) 5
MESSAGE From Dr. Kibarian
telephone # (301) 983-2823
Fax back any correspondance
to AlphaGraphics

Need continuous letterhead,
envelopes, or forms?
Call ALPHAGRAPHICS today for
Exceptional Quality and Quick Turnaround!

CULINARY
SCHOOL
of WASHINGTON
Paris Rome Beijing Inc.

AGREEMENT

The purpose of this agreement is to create a Gastronomy/ Chef's Program for the University of Bridgeport that meets the standards of academic excellence and is financially sound.

The game plan is to initiate the first class efficiently in order to limit the cash outlay for both parties.

The specific resources provided by the University of Bridgeport and those by the Culinary School are listed below as well as deductions from the first class and the allocation of the residual.

1. The University of Bridgeport agrees to provide dormitory or appropriate living facilities for Dr. and Mrs. Kibarian and one additional accomodation for a female recruitter.

   i. Allow eating priviledges for the above three persons in the University

   ii. Provide office space, telephones, and clerical (not personal) support such as a typewriter, copying machine, school stationary and postage for mailing.

   iii. Compensate $3,000 bi-monthly commencing when this agreement is signed by both parties, but no more than $12,000 over a two month period. Further income for the Culinary School is based on Article 3.

養
The Great Cuisines
中
of China

7624 Mary Cassatt Drive, Potomac, Maryland 20854 (301) 983-2823

2. The Culinary School will plan, initiate and recruit students and faculty and administer the Gastronomy/Chef's Program. Students will be encouraged to take all of the liberal arts courses required by the University for the Associate and Bachelor's Degree.

   i. Culinary School agrees to hire at its sole expense any and all staff as needed. The University of Bridgeport retains the right of approval of any employees hired by Culinary School.

   ii. Proposed faculty members shall be recommended to the University of Bridgeport by the Culinary School. The University of Bridgeport retains the right to make all faculty hiring decisions and all faculty members hired shall be employees of the Culinary School unless specified otherwise. However, all salaries and taxes, including, but not limited to social security, paid to or on behalf of said faculty members by the University of Bridgeport shall be deducted from the payment owed by the University of Bridgeport to Culinary School.

   iii. Culinary School agrees to pay for outside advertising media production.

   iv. Culinary School agrees to provide in addition to a curriculum with a daily lesson plan, the following: One uniform, knife set, a set of textbooks (for recruiters to demonstrate) standardized examinations (corrected by the Culinary School), a daily faculty assessment procedure. The Curriculum and lesson Plan are valued at $50,000 and will be loaned to the University and students during the length of this agreement.

3. All tuition and fees paid to the University of Bridgeport by students enrolled in the Gastronomy/Chef's Program courses shall constitute the gross revenue of the Culinary School. From the gross revenue so defined, the following items shall be deducted:

BEST COPY AVAILABLE

i. Faculty salaries

ii. Food costs and administration of purchasing department for daily cooking

iii. Knife set, uniform, books lesson plan (normally included in tuition and fees)

iv. Kitchen facilities not owned or leased by the University of Bridgeport with approval of the University.

v. The University of Bridgeport will in consideration of Culinary School services, pay two-thirds of the residual to the Culinary School and one-third to the University of Bridgeport.

4. Culinary School has no claims to tuition and fees earned by the University of Bridgeport for courses taken by students unrelated to the Gastronomy/Chef's Program.

5. Culinary School agrees to be solely responsible for any financial losses sustained in the performance of this agreement.

6. Culinary School hereby releases and discharges the University of Bridgeport, its corporators, trustees, officers, faculty, students, employees and agents of and from all claims, demands, actions and causes of action of every nature, including, but not limited to all losses or expenses which may arise and relate in any way to the activities covered pursuant to this agreement. Further, Culinary School agrees to indemnify and hold the University of Bridgeport, its corporators, trustees, officers, faculty, students, employees and agents harmless from and against any and all liabilities, claims actions, costs and expenses in any way related or arising out of the activities covered pursuant to this agreement.

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7. This agreement may be amended in writing only and signed by both parties.

8. This agreement is executed under the laws of the Commonwealth of Connecticut and shall become effective October 1, 1990 and continue with full force and effect until October 1, 1993. Either party may terminate with 60 days notice before termination of a semester.

Executed by the parties, hereto, through their authorized representatives, this ____day of ________________1990.

____
For the University of Bridgeport

____
For Culinary School

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 82

CULINARY
SCHOOL
of WASHINGTON, LTD.
300 G St. N.E.
Washington, D.C. 20002
(202) 543-7358

16 July 1990

Dr. Janet Greenwood, President
University of Bridgeport
Bridgeport, CT 06602

Dear Dr. Greenwood:

Mary Ann and I enjoyed meeting you and your key executives. Your home is lovely and dinner was fine.

Enclosed is a proposed letter I would like to send to random selected leads not being "worked" and "drop-outs." This can be a bulk mailing, simply folded, requiring no envelope.

The idea of this notice is to measure interest in a proposed program. This will compress time by searching out at least 100 serious candidates. There is no pride of authorship--changes may be made to avoid jeopardizing approval.

I look forward to working with your fine executive team and will work with Dr. Eigel on a day-to-day basis. The mission is quite clear: "Provide significant revenue to the University consistent with academic excellence."

With kindest regards.

Sincerely,

Barkev Kibarian, Ph.D.

cc: Dr. Eigel
Mike Bisciglia
Mike Decher

RECEIVED
JUL 19 1990
MICHAEL J. DEECHER

Hi,

Have you thought about being a Gourmet Executive

CHEF

Over the years we have received many inquiries requesting a gourmet executive chef's program.

Please call now to discuss your interest in this possible program or any other career you wish to talk about.

Please call now for a friendly talk . . . . . .

Barkev Kibarian, Ph.D.
Chef de Cuisine

Print

Lk

3 UPS

Call to [illegible] who is following up

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 83

CULINARY
SCHOOL
of WASHINGTON, LTD.

300 G Street, NE
Washington, DC 20002

202-543-7358

Telefax Number: 202-546-5224

Date: June 19, 1990 Time: 4:30

SENT TO: Dr. JANET GREENWOOD

TELEFAX NUMBER: 203-576-4983

FROM: DR. B. KIBARIAN

THIS TRANSMITTAL CONTAINS 4 PAGES, INCLUDING THIS TRANSMITTAL SHEET.

IFYOU DO NOT RECEIVE THETOTAL NUMBER OF PAGESAAS INDICATED ABOVE WITH THIS TRANSMISSION, PLEASE TELEPHONE OUR OFFICE AND ADVISE THESENDER.

RECEIVED
JUN 21 1990
MICHAEL J. BEECHER

CULINARY
SCHOOL
of WASHINGTON, LTD.
300 G St. N.E.
Washington, D.C. 20002
(202) 543-7358

18 June 1990

Dr. Janet D. Greenwood, President
University of Bridgeport
Bridgeport, CT 06602

Dear Dr. Greenwood:

I spent a week at the University of Bridgeport and slept in Schine dormitory; the potential is exciting and working with Dr. Eigel is great. I also visited with several administrators while on campus.

The $12.5 million debt I read about in the newspaper is a challenge; I would like to take the responsibility of eliminating this through the Chefs Program and here is a brief plan:

Dr. Eigel is in the process of obtaining approval of the chefs program; the cafeteria is currently available for use, now that the Methodist seminar is over.

Almost no expenditure is needed to recruit at least one class of 25 students from the 22,000 inquiries received annually at the University of Bridgeport and from the normal drop-out pool which I reviewed briefly; also we currently have 300 prospects in our possession in Washington that would be excited at the opportunity of earning an Associate degree from a four-year university.

A portion of the pool of revenue generated from this first class can be plowed back to build a sales force East of the Mississippi to refer students to the University of Bridgeport for the Associate program. The kitchen portion of instruction can be taught in their home towns before coming to the main campus for their liberal arts courses in September, January, and June, without adding any new classes; housing of course is already available--this will result in 100 new students monthly

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in the chefs program. A sales force of 25 to 50 off-campus recruiters paid, in essence, on a productivity basis. They will refer students who meet the University of Bridgeport guidelines, but will not be involved in financial aid, will produce these numbers.

In addition, during the summer of 1991 I suggest a bilingual chefs program be offered in Spanish (we already have a method of instruction for this program), as well as in Japanese, Arabic, and Turkish. These students will be recruited by nationals in their respective countries although large local American ethnic communities can also be a source since they are anxious for their friends and relatives to attend. This bilingual enrollment will be 500; they may stay on to study English and go on for the Associate degree if they are prepared to meet the University standards.

The chefs program can be an additional source of revenue. To illustrate: When you walk into selected Bloomingdale stores on each floor you pass by a cart offering fruit tarts, brownies, cookies, coffee and in various buildings and on the streets in New York City a "Water wagon" of various bottled waters of the world is offered to the public; and in the Marriott headquarters building in Bethesda, Maryland, these items are sold to their office employees. This is considered a profit center by Marriott.

Between classes at the University of Bridgeport these service carts should be roaming the building, dormitories and offices for a cup of capaccino or coffee a la Viennese with fresh cream, jimmies or chocolate in the coffee. These of course will be manned and operated by students in the chefs program, general students and of course the business school can also have a role in this new entrepreneurship.

The Domino's pizza store near George Washington University does 1000 pizzas a day! The trend now at universities is out-reach for food services. There will now be a natural labor force to draw from. Schine dormitory now simply has gaming machines, two soda machines and assorted peanut butter crackers type machines. A cart offering miniature pizzas, milk and desirable items would be stampeded.

The typical Domino's does one million dollars annually.

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corner. A full fare delivery can also reach out to Fairfield, Bridgeport, firms, and offices and also ships and yachts. An au courant attitude toward food service.

The food service center can and should be a profit center. I was made aware that a labor contract is being negotiated and do not wish to muddy the water. However, the chefs program through internship, (no cost) and apprenticeships, can save 75% of labor and management costs.

The colleges and universities with their own food services have an organization referred to as NACUES (National Association of College and University Food Services) headquartered in Lansing, Michigan. These employees would like to earn an Associate degree and would be perfect to attend summers at the University of Bridgeport as would thousands of food service employees at hospital nursing homes, hotels, restaurants to name a few especially as we develop a flexible schedule.

Looking forward to meeting you for a discussion over lunch or dinner to make the $12.5 million dollar debt reduction a cause celebre.

Best regards,

Barkev Kibarian

Barkev Kibarian, Ph.D.
Chairman of the Board

Senate Permanent Subcommittee on Investigations

EXHIBIT # 84

CULINARY SCHOOL of WASHINGTON LTD.
300 G St. N.E.
Washington, D.C. 20002
(202) 543-7358

30 May 1990

Dr. Edwin G. Eigel, Jr.
Provost and Vice President
University of Bridgeport
Bridgeport, CT 06601

Dear Dr. Eigel:

I appreciated the opportunity to discuss in further detail my proposal to develop a gastronomy gourmet chef's program on your campus.

As a result of our discussions, I suggest we meet Friday, 1 June 1990, at 10 am, to finalize an initial agreement to initiate the program Monday, 4 June 1990. I will simply need some office space to begin my work starting 1 June 1990 and to continue through the following week. Three other employees will join me in a few days for a total of four to recruit students for a class commencing 16 July 1990. We prefer being close to the admissions office.

I will proceed to find a suitable kitchen to hold classes; enclosed is a similar type agreement we normally use to rent kitchens during their down time.

The University of Bridgeport will provide a check for $1,000 made out to Kibarian Associates on 1 June 1990.

The remaining staff will come on campus Wednesday, 6 June, and live on campus or a near-by motel and work six days a week; their expenses and salaries will be born by us from the next payment of $4,000 due Friday, 8 June 1990.

You already have a copy of a projected income and profit statement based on a successful chefs program on your campus. My efforts will be concentrated on establishing such a program by 16 July 1990. Future payments to me will be consistant with the proposal outlined in the projected income and profit statement.

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In return for these payments, Kibarian Associates agrees not to establish a similar program at any other campus in Connecticut.

After this arrangement has been in effect for sixty days, either party will have the right to ask that a more formal contract, incorporating the details of our arrangement, be drafted.

We further pledge our best efforts to promptly provide the University of Bridgeport with a curriculum and marketing plan which will successfully establish the University of Bridgeport as a major center for training gourmet chefs and culinary specialists.

I and my associates look forward to a long and productive relationship with you and with the University of Bridgeport.

Sincerely yours,

Barkev Kibarian

Barkev Kibarian, Ph.D.
for Kibarian Associates

Agreed this day of May 1990

Dr. Edwin G. Eigel, Jr.
for the University of Bridgeport

TABLE I

INITIATING & MANAGING A GOURMET CHEFS PROGRAM ON YOUR CAMPUS PROJECTED INCOME & PROFIT

Revenue - per class		
Tuition per student $8400		
25 Students - length of Program 16 Weeks		
40 hours per week		$210,000
Direct Cost per Class		
Food $6 per day x 25 students x 80	= $12,000	
Instruction $15 per hour x 640 days	= 9,600	
Books, Lesson Plan, Uniform, Knives	= 12,500	
Advertising per Class	= 6,000	
Total Operating Costs		40,100
Gross Profit		$169,900

* * * * * * * * * * * *

Revenue - 225 Matriculating Students 1st Year	$1,890,000
3 Classes every 4 Months	
9 Classes per Year	
Direct Costs	

Table II

Cash Flow - Scheduled Use of Funds and Distribution of Profits for First Class

Class I Gross Revenue		$210,000
Minus Initial Outlay by Institution	$50,000	
Minus Cost of Program	40,000	90,100
Profit after Initial Outlay and Direct Cost of First Class		$119,900

Class II - To begin one month after 1st Class started

Projected Cost of Class II to be deducted from Revenue earned from 1st Class Revenue	50,000
Distribution of Remaining Profit	$69,900
50% for Institution	$34,950
50% for B.X.	$34,950

Institution recoups its original advance of $50,000 & the
costs of operating the 1st class.
New Classes financed from profits.
Institution need not put in any new funds.
Institution realizes 70% return on investment in four months.

Table III

Cash Flow, Classes II through IX, Illustrating Use of *Additional Expenses & Increased Percentage of Profit for your Institution: 60% for your Institution Starting with 5th Class & 70% Starting with 9th Class

Class II Gross Revenue	$210,000	
Minus Cost of Program		
Cost of Equipment, Faculty, Supplies	50,000	
	$160,000	
*New Full-time Recruiter	50,000	
Gross Profit before Allocation		$110,000
Class III Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*New Director of Program	50,000	
Gross Profit before Allocation		$110,000
Class IV Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Second Recruiter	50,000	
Gross Profit before Allocation		$110,000
Class V Gross Revenue	$210,000	
Minus Cost of Program	50,000	
	$160,000	
*Assistant to Director	30,000	
Gross Profit before Allocation		$130,000

* *

At this point, the profit distribution becomes 60% to the Institution and 40% to B.K.

* *

Table IV

Gross Revenue for First Year, Profit After Expenses & Profit Distribution to your Institution & B.K. with Rate Increases in your Favor

Class	Gross Revenue	Total Profit After Expenses	To Institution	To B.K.
			(50%)	(50%)
I	$ 210,000	$ 69,900	$ 34,950	$ 34,950
II	210,000	110,000	55,000	55,000
III	210,000	110,000	55,000	55,000
IV	210,000	110,000	55,000	55,000
			(60%)	(40%)
V	210,000	130,000	78,000	52,000
VI	210,000	130,000	78,000	52,000
VII	210,000	130,000	78,000	52,000
VIII	210,000	100,000	60,000	40,000
			(70%)	(30%)
IX	210,000	160,000	112,000	48,000
Totals	$1,890,000	$1,049,000	$605,950	$443,950

Table V

Gross Revenue, Expenses, and Profit for the First & Second Years & Third Year & Profit Allocation

	Gross Revenue	Expenses	Total Profit	Profit to the Institution	Profit B.K.
1st Year	$1,890,000	$840,100	$1,049,900	$605,950	$441,9
2nd Year	1,890,000	840,100	1,049,900	734,930	314,97
3rd Year	1,890,000	840,100	1,049,900	944,910 (2)	104,99

(1) The buy-out figure, at the end of the 2nd year is (1/3)(314,970) = $104,990 if the institution desires.

(2) Assumes Buy-out.

Increased Revenue could result by expansion of number of kitchens and recruiting.

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 89

LAW OFFICES
SCHWALB, DONNENFELD, BRAY & SILBERT
A PROFESSIONAL CORPORATION

BURTON A. SCHWALB
CHARLES [illegible] DONNENFELD
JOHN F. BRAY
EARL J. SILBERT
[illegible]

SUITE 300 EAST
1025 THOMAS JEFFERSON STREET, N. W.
WASHINGTON, D. C. 20007

AREA CODE 202
965-7910

TELECOPIER 202-337-0678

October 2, 1990

BY HAND

Senator Sam Nunn
Chairman
Permanent Subcommittee on Investigations
United States Senate
Dirksen Senate Office Building, Room 303
Washington, D.C. 20510

Re: Barkev Kibarian, Ph.D.

Dear Senator Nunn:

Dr. Barkev Kibarian and his wife, Mary Ann Kibarian, received subpoenas to testify before your Subcommittee on September 13. Dr. Kibarian's appearance was postponed after I brought to the attention of Mr. John Sopko and Mr. Mark Webster of the Subcommittee staff the fact that Dr. Kibarian had suffered a stroke in May and appeared to have had a second stroke in early September. Mrs. Kibarian's appearance was postponed as well because she had to attend to her elderly mother who underwent surgery on September 12.

In support of Dr. Kibarian's request for a postponement of his appearance, I provided the Subcommittee staff with a letter from his primary physician, Gilbert Eisner, M.D., documenting his medical condition. In that letter Dr. Eisner expressed concern about Dr. Kibarian's condition and stated that he should not be placed in any stressful situation for the immediate future.[1] Mr. Webster interviewed Dr. Eisner in connection with that earlier request, and the Subcommittee agreed to reschedule the Kibarians' appearance to some future date. They are currently scheduled to testify on Friday, October 5.

---

[1] A copy of this letter was provided to you and other members of the Subcommittee in my letter dated September 19.

803

Despite the written and oral statements made by Dr. Eisner, you and other members of the Subcommittee expressed skepticism about the state of Dr. Kibarian's health as evidenced by the transcript of the September 13 hearings. Dr. Kibarian has since that time been re-examined by his neurologist, Richard Edelson, M.D., who has concluded that Dr. Kibarian has indeed suffered a second stroke. Dr. Edelson bases his diagnosis on a comparative analysis of magnetic resonance imaging (MRI) scans performed in May and September of this year. Dr. Edelson writes that the stroke suffered by Dr. Kibarian is a "lacunar infarct which is associated with hypertension and stress," and that it would be to Dr. Kibarian's "medical detriment" if he were to be placed "under the stress of the forthcoming hearings [of the Subcommittee]." Dr. Edelson concludes that "this is a fresh stroke and [Dr. Kibarian] should not put himself under any undue stress at least for a month." A copy of Dr. Edelson's letter is enclosed.

In light of the precarious state of Dr. Kibarian's health at this time, as documented by two physicians who have recently examined him, I once again respectfully request that the Subcommittee postpone the appearance of Dr. Kibarian until such time as he can testify without the risk of physical harm. I do not make this request cavalierly. I am fully aware that the Subcommittee wants Dr. Kibarian's testimony in order to carry out its legislative duties. I am also aware that the Subcommittee does not take kindly to persons who, it feels, are attempting to hinder an investigation. Nonetheless, I must reiterate my request to postpone Dr. Kibarian's testimony on the ground that the stress of appearing before the Subcommittee could aggravate his current medical condition. In making this request, I wish to assure the Subcommittee that Dr. Kibarian's wife, Mrs. Mary Ann Kibarian, who is also represented by this firm, is prepared to testify this Friday, October 5, at 9:00 a.m.

I would like to inform Dr. Kibarian as soon as possible whether, despite his ill health, he will nonetheless be called upon to appear before the Subcommittee this Friday. Accordingly, I would greatly appreciate your response to this request at your earliest convenience.

Sincerely,

Stephen P. Matthews

Enclosure

Senator Sam Nunn
October 2, 1990
Page 3

cc: All Subcommittee Members (w/encl.)
John F. Sopko, Esq. (w/encl.)
~~Mr. Mark [illegible]~~(w/encl.)
Dr. Barkev Kibarian
Mrs. Mary Ann Kibarian

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 90

LAW OFFICES
SCHWALB, DONNENFELD, BRAY & SILBERT
A PROFESSIONAL CORPORATION

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CHARLES R. DONNENFELD
JOHN M. BRAY
CARL J. SILBERT
DAVID J. CURTIN
CHARLES B. WAYNE
STEVEN SARFATTI
LUCINDA J. BACH
PATRICIA L. MAHER
GARY M. FELDMAN
JOSEPH M. JONES
KEVIN M. SINAN
STEPHEN P. MATTHEWS
JAMES S. COHEN
JOE D. JACOBSON
PAMELA R. ELLIS
DEBRA ORNSTEIN
MICHELE A. HORN**
DEMAURICE F. SMITH***
ADAM S. HOFFINGER*

*ADMITTED IN NEW YORK ONLY
**ADMITTED IN VIRGINIA ONLY
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AREA CODE 202
965-7910

TELECOPIER 202-337-0678

1990 SEP 21 PM 3 51

September 19, 1990

Senator Sam Nunn
Chairman
Permanent Subcommittee on Investigations
United States Senate
Dirksen Senate Office Building, Room 303
Washington, D.C. 20510

Re: Hearings on Abuses in Federal Student Aid Programs--Testimony of Barkev Kibarian, Ph.D. and Mrs. Mary Ann Kibarian

Dear Senator Nunn:

I am writing on behalf of my clients, Dr. Barkev Kibarian and Mrs. Mary Ann Kibarian, both of whom have been subpoenaed to testify before the Subcommittee. The Kibarians were originally scheduled to testify on September 13, but, due to medical reasons, the Subcommittee granted them an extension for their appearances. They are now scheduled to testify on Friday, October 5.

As You and the Subcommittee staff are already aware, Dr. Kibarian had a stroke this past May and appears to have suffered a second stroke recently. Dr. Kibarian's physician, Dr. Gilbert Eisner, has written me a letter stating that Dr. Kibarian, in light of his medical condition, "[f]or the immediate future . . . should not be placed in any stressful situation." A copy of this letter, which was previously provided to the Subcommittee staff, is enclosed herewith. Despite the precautionary note sounded in Dr. Eisner's letter, the Subcommittee has concluded that Dr. Kibarian should nonetheless appear on October 5 and testify before the Subcommittee.

To minimize the stress that such an appearance before the Subcommittee will create for Dr. Kibarian, who, as I previously advised John Sopko and Mark Webster of the Subcommittee staff, would likely assert his Constitutional privilege to not answer certain questions posed to him at the hearing, I respectfully request that Dr. Kibarian's testimony be held in Executive Session. I can see no valid legislative purpose for causing Dr. Kibarian to assert his Constitutional rights in a public session with spotlights, television cameras and microphones directed at him--a stressful situation for any private citizen which could, in this instance, aggravate Dr. Kibarian's medical condition.

I respectfully request that the Subcommittee afford the same courtesy to Mrs. Kibarian. She is tending to her elderly mother who recently underwent surgery at George Washington University Hospital. The strain and worry that Mrs. Kibarian is currently experiencing due to the medical conditions of her husband and her mother need not be exacerbated by forcing her to testify before the Subcommittee in a public session--especially if she, too, will likely assert her Constitutional rights to not answer certain questions addressed to her.

On behalf of Dr. and Mrs. Kibarian, I am grateful for whatever consideration you and other members of the Subcommittee can give to this matter.

Sincerely,

Stephen P. Matthews

cc: All Subcommittee Members
John F. Sopko, Esq.
Mr. Richard M. Webster

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 91

THE NEUROLOGY CENTER, P.A.

NEUROLOGY
[illegible]
RICHARD N. EDELSON, M.D.
[illegible]
PRESTON C. CALVERT, M.D.

CHILD NEUROLOGY
[illegible]

NEURORADIOLOGY
DIAGNOSTIC IMAGING
[illegible]

BARLOW BUILDING
[illegible] WISCONSIN AVENUE
CHEVY CHASE, MD [illegible]
TELEPHONE (301) [illegible]

UNIVERSITY MEDICAL BUILDING
[illegible] K STREET, N.W.
WASHINGTON, D.C. [illegible]
TELEPHONE (202) [illegible]

PHYSICIANS BUILDING
[illegible] MEDICAL CENTER DRIVE
ROCKVILLE, MD [illegible]
TELEPHONE (301) [illegible]

WHEATON PLAZA SOUTH ANNEX
[illegible] VEIRS MILL ROAD
WHEATON, MD [illegible]
TELEPHONE (301) [illegible]

TRUSTBANK SAVINGS BUILDING
[illegible] LEESBURG PIKE
FALLS CHURCH, VA [illegible]
TELEPHONE (703) [illegible]

September 28, 1990

TO WHOM IT MAY CONCERN:

Re: Dr. Barkev Kibarian (DOB: 12-29-27)

Dr. Barkev Kibarian is under my medical care and was seen by me on September 26, 1990. He has had a recent stroke which is documented by a magnetic resonance imaging scan. This is a lacunar infarct which is associated with hypertension and stress.

I have told Dr. Kibarian that it would be to his medical detriment should he put himself under the stress of the forthcoming hearings. This is a fresh stroke and he should not put himself under any undue stress at least for a month.

Sincerely,

Richard N. Edelson M.D.

Richard N. Edelson, M.D.

RNE:skw

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 92

THE NEUROLOGY CENTER, P.A.

NEUROLOGY
MARVIN E. KORENGOLD M.D.
HOWARD M. SILBY M.D.
ELLIOT C. WILNER M.D.
DAVID SATINSKY M.D.
RICHARD N. EDELSON M.D.
J. JOHN BLAZEK M.D.
FRANK D. ANDERSON M.D.
PHILIP D. PULASKI M.D.
BRIAN H. [illegible] M.D.
BENJAMIN M. FRISHBERG M.D.
KENNETH W. ECKMANN M.D.
MARTIN D. RUBINOWITZ M.D.
PRESTON C. CALVERT M.D.

CHILD NEUROLOGY
DONALD J. FISHMAN M.D.
PHILLIP L. PEARL M.D.

NEURORADIOLOGY
DIAGNOSTIC IMAGING
CHARLES M. CITRIN M.D.
BRUCE J. BOWEN M.D.
JOHN L. SHERMAN M.D.
HOWARD A. SACHS M.D.
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TRUSTBANK SAVINGS BUILDING
7799 LEESBURG PIKE
FALLS CHURCH, VA 22043
TELEPHONE (703) 827-4090

October 4, 1990

Senator Sam Nunn
Chairman, Permanent Sub-Committee of
Investigation
United States Senate
Capitol Building
Washington, DC 20510

RE: Dr. Barkev Kibarian

Dear Senator Nunn:

This is a letter to clarify my note of September 28, 1990, addressed "To Whom It May Concern". In that memorandum I stated that Dr. Barkev Kibarian should not place himself under stress for the arbitrary period of 30 days following the onset of his presumed stroke of September 1, 1990. The 30 day period should be from September 1, 1990. Thus, at this point, from the information I have, he should be able to give testimony to the Senate Sub-Committee on October 5, 1990.

Sincerely,

Richard N. Edelson, M.D.

RNE/djr

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 113

TESTIMONY OF
THE HONORABLE MARGE ROUKEMA
BEFORE THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
REGARDING STUDENT LOAN DEFAULTS

SEPTEMBER 12, 1990

MR. CHAIRMAN:

I APPRECIATE YOUR ALLOWING ME TO SUBMIT THIS STATEMENT FOR THE RECORD OF THIS HEARING AND I CONGRATULATE CHAIRMAN NUNN, THE RANKING MINORITY MEMBER SENATOR ROTH, AND THE OTHER MEMBERS OF THE SUBCOMMITTEE FOR THEIR ATTENTION TO THE STUDENT LOAN DEFAULT PROBLEM. AS YOU KNOW THIS IS A PROBLEM THAT HAS GROWN FROM $200 MILLION IN 1981, TO OVER $2 BILLION THIS YEAR. THE TOTAL AMOUNT OF DEFAULTED STUDENT LOANS NOW OUTSTANDING IS APPROACHING $8 BILLION. I AM PLEASED THAT THE SENATE IS ADDRESSING THIS IMPORTANT SUBJECT. IF WE WAIT ANY LONGER TO FIX THE PROGRAM, WE COULD HAVE ANOTHER SAVINGS AND LOAN BAILOUT ON OUR HANDS.

I WISH THE HOUSE OF REPRESENTATIVES WOULD TAKE NOTICE OF THIS PROBLEM AS YOU HAVE. I HAVE TRIED FOR THE PAST TWO YEARS TO HAVE THE EDUCATION AND LABOR COMMITTEE HOLD SIMILAR INVESTIGATORY HEARINGS ON THE SCANDALS BEING PERPETRATED ON THE STUDENT LOAN PROGRAM BY UNSCRUPULOUS AND FRAUDULENT PROPRIETARY SCHOOLS. I APPLAUD THE FACT THAT THESE SENATE HEARINGS ARE FOCUSING ON THE LOOSE ACCREDITATION STANDARDS AND FRAUDULENT AND ABUSIVE PRACTICES IN WHICH TRADE SCHOOLS ENGAGE. VERY OFTEN THESE SCHOOLS GO INTO BUSINESS FOR THE SOLE PURPOSE OF BILKING THE FEDERAL GOVERNMENT OUT OF STUDENT AID DOLLARS. THE PRACTICES OF THE SCAM SCHOOLS ARE RESPONSIBLE FOR A LARGE PART OF THE TOTAL AMOUNT OF STUDENT LOANS IN DEFAULT. THESE ARE LOSSES THAT MUST BE PAID BY THE AMERICAN TAXPAYER. IN ADDITION TO THE FINANCIAL LOSSES TO TAXPAYERS, THE LOSSES EXTEND TO THE THOUSANDS OF WORTHY STUDENTS WHO WILL BE DEPRIVED OF THE OPPORTUNITY FOR A HIGHER EDUCATION. THE STUDENT LOAN DEFAULT LOSSES IS MONEY THAT COULD HAVE SENT DESERVING STUDENTS TO LEGITIMATE SCHOOLS. IT'S TIME FOR CONGRESS TO STOP PROCRASTINATING AND ADDRESS THIS ISSUE.

AS YOU KNOW, THE HOUSE AND SENATE ARE CURRENTLY MEETING IN A CONFERENCE COMMITTEE TO RECONCILE THE DIFFERENCES IN OUR EDUCATION BILLS. I DID MY BEST TO HAVE STUDENT LOAN DEFAULT REFORMS ADDED TO THE HOUSE BILL H.R. 5115, THE EQUITY AND EXCELLENCE IN EDUCATION ACT. THE SENATE WAS SUCCESSFUL IN INCLUDING REFORMS SIMILAR TO THE ONES I PROPOSED WHEN PASSING S. 695, THE EDUCATIONAL EXCELLENCE ACT OF 1990. IT IS MY HOPE THAT THESE HEARING WILL SEND AN UNEQUIVOCAL MESSAGE TO THE MEMBERS OF THE HOUSE INVOLVED IN THAT CONFERENCE THAT SOMETHING MUST BE DONE ABOUT STUDENT LOAN DEFAULTS NOW. THE CONFEREES ON THE EDUCATION BILLS SHOULD HEED THIS MESSAGE AND RETAIN THE SENATE DEFAULT PROVISIONS IN THE FINAL VERSION OF THE BILL.

I LOOK FORWARD TO THE RESULTS OF YOUR HEARINGS AND TO DEFAULT REFORMS BEING ENACTED THIS YEAR. WITH YOUR HELP, WE CAN ELIMINATE FRAUD, WASTE AND ABUSE BY THE TRADE SCHOOL INDUSTRY AND RETURN FINANCIAL INTEGRITY TO THE STUDENT LOAN PROGRAM. THANK YOU, MR. CHAIRMAN.

Another scandal in the making

By Marge Roukema

Stop me if you have heard this one before.

A federal insurance program that protects thousands of American citizens begins to lose money. After years of drain, the telltale signs of insolvency appear. Congress is warned. A solution is proposed. The special interests step forward to say the problem is being exaggerated and that half-step reforms are sufficient. Congress debates and delays action until, finally, the program goes bankrupt. With billions of taxpayer dollars at stake, the government steps in with a costly bailout.

This is not the well-worn saga of the savings and loan debacle. I'm talking about the $7.8 billion default scandal in the Federal Guaranteed Student Loan program.

As Yogi Berra says, "It's deja vu all over again!"

Each time we are faced with a program in crisis, Congress tries to avoid politically difficult decisions. The result is that relatively minor problems are permitted to fester until they require huge bailouts.

Recently, the federal Department of Education released the findings of an actuarial study of the GSL program conducted by the General Accounting Office (GAO). That study confirmed that the GSL program has been losing money for 10 years. In fact, student loan defaults have grown from a $200 million problem in 1981 to a $2 billion-per-year problem in 1990. The current $2 billion in defaulted loans will consume 37 percent of the amount Congress appropriated for the student loan program for 1990. This is money that is thrown down the drain and will not help one student get a higher education.

There is ample evidence that the program is in the early stages of collapse. In July, the Higher Education Assistance Foundation (HEAF), an Oklahoma-based company that guarantees millions of student loans each year, announced that it could no longer meet its obligations to reimburse lenders for defaulted student loans. The collapse of HEAF will leave the government with the guaranteed liability of billions of dollars in loans held by the firm. The Department of Education cannot say exactly how much the failure of HEAF will cost. They also cannot say with certainty how many other guarantee agencies are in danger of failing, although officials say the department "has its eye on six others."

> " Many trade schools are created for the sole purpose of bilking the government out of student aid money. "

Why do so many students default on their loans? To a large extent, the increase in student loan defaults is directly attributable to the explosion in the number of trade and technical schools over the past 10 years. Many of these schools are simply scam operations that go into business for the sole purpose of bilking the government out of student aid money. Some of these scam schools are operating with annual default rates as high as 70 percent. These schools enroll students, secure guaranteed loans from banks, and provide such a poor education that many students either drop out or are unable to find employment in the field for which they were supposedly trained. The school keeps the student aid money, the bank gets its government-backed loan payment, and the student is left holding the bag with a poor credit rating, no job, and no income to repay the student loan.

As a member of the House Education and Labor Committee, I have pressed since 1987 to reform the student loan program through a legislative mandate. The growth in defaults is clear evidence that the system is lacking the necessary safeguards against fraud, waste, and abuse.

With headlines screaming that the S&L bailout will require an additional $400 billion for 1991 alone, you might think that a Congress staring into this particular abyss would sober up and say "never again."

But, while the Senate added tough student-loan reforms to its version of the omnibus education bill, the House chose to forgo reform of the program.

My reforms would have required forced lenders to examine the legitimacy of the schools to which they lend, and share the risk for loans gone bad. Most important, my proposals would have prohibited the flagrant recruiting abuses and accreditation fraud perpetrated by the scam schools. Finally, I would have required students to provide more information to make them easier to locate when they default. My amendment, however, was defeated.

The defeat of my amendment was clearly a result of lobbying by trade school associations and special interest groups. Lobbyists haunted the halls of Congress, twisted arms and blocked the types of reforms that would have restored accountability to the student loan program and averted another expensive government bailout.

The Federal Student Loan Program and the S&L industry are by no means the same. But, unless we act wisely today, the parallels between the two may be more than rhetorical. We may well have yet another bankrupt government-backed program to bail out.

In addition to financial losses to the taxpayers, the losses extend to the thousands of worthy students who will be deprived of the opportunity for higher education. In the end, our nation's ability to compete in world markets will suffer.

Marge Roukema is a Republican member of Congress, representing the 5th District in Bergen County

817